



The functioning of judicial systems and the situation of the economy in the European Union Member States

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Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

COMPILED REPORT

PART 1 – COUNTRY FICHES

PART 2 – COMPARATIVE ANALYSIS

PART 3 – ANNEXES

Report
prepared by

Eric Dubois
Christel Schurrer
Marco Velicogna

experts appointed by the Bureau of the CEPEJ

Report prepared for the
European Commission (Directorate General JUSTICE)

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ABBREVIATIONS

The following abbreviations are being used in this report:

CR: Clearance Rate

DT: Disposition Time

NA: data not available

NAP: data non applicable

CC total: total civil and commercial cases

CC Lit: Litigious civil and commercial cases

CC Nlit: Non-litigious civil and commercial cases

ENF: Enforcement cases

ADM: Administrative cases

EXECUTIVE SUMMARY

INTRODUCTION

In contemporary democracies, Justice systems occupy a central position among public institutions as autonomous and independent branches of the governments. The reason is that an independent and effective justice system not only provides a safeguard for human rights, but also for example regarding a number of other aspects of life in society that are crucial to the well-being of individuals and organisations, such as health, work, industrial relations, social security, family relations, civil rights, environmental rights, consumer rights, property rights, the enforcement of contracts¹.

From a business perspective, judicial institutions have to insure respect for property rights² and guarantee contract enforcement (Sherwood et al., 1994, Barro, 1999)³. In so doing, efficient judicial institutions reduce the risks and uncertainty, on the one hand, of starting and conducting business⁴, which leads individuals to invest, and on the other hand, of consumers and service users, which reduces transaction costs and strengthens the market.

By promoting investment, good judicial institutions can contribute to economic growth and development⁵.

“The centrality of a strong justice mechanism lies in its essential contribution to fostering economic stability and growth, and to enabling all manner of disputes to be resolved within a structured and orderly framework” (UNODC, 2011: 1).

The justice system can shape the business environment in several other dimensions.

¹ On the growing role of judicial institutions and its causes see, for example, Friedman (1994), Tate and Vallinder (1997), or Irschl (2004).

² Property rights can be broadly defined as “the rights of a firm or individual to assets to the revenue streams generated by assets, and to any other contractual obligations due the firm or individual” (Keefer and Knack (1997: 591).

³ After the influential work of North (1981, 1990, 1991), the idea that the institutional framework matters in the determination of economic outcomes has become barely controversial (see among many other, Barro, 1991a, 1991b, 1996, 1997, World Bank, 1994, 1997, Knack and Keefer, 1995, Mauro, 1995, Brunetti, 1997a, 1997b, Kaufmann et al., 1999, Acemoglu et al. 2001, 2005, Kaufmann and Kraay, 2002, IMF 2003).

⁴ We can note that an efficient judicial system may influence both insider and outsider economic actors. On the one hand, the system can favour or penalise exiting entrepreneurs (insiders) and on the other hand, it may incite potential entrepreneurs (outsiders) to enter or stay out of the business.

⁵ See Van Velthoven (2005) for a survey on the impact of judicial institutions on the economy.

Firstly, not only does the system have to enforce legal rules, but also has to enforce *good* legal rules (World Bank, 1997). Of course, the reverse is true: good legal rules are useless if they are not enforced.

Secondly, it is important for business to operate within a predictable framework of rules. This aspect is one of the most important for entrepreneurs (Brunetti et al., 1997, 1998).

Thirdly, legal rules have to be stable (World Bank, 1997). Changing rules make the future (more) uncertain. This hinders investment and depresses growth.

Fourthly, since the justice system is an institutional infrastructure provided by the State, it reflects state power (World Bank, 1997). A poor justice system can be associated with a weak State, and a weak State can be viewed as less capable of enforcing the law. The State should therefore be credible, and reliable institutions make for credible States.

Fifthly, a poor justice system may encourage the development of corruption which incurs extra financial costs (i.e. rise of transaction costs) for entrepreneurs and slows business down.

Finally, judicial independence is seen as a growth-enhancing factor (Feld and Voigt, 2003, 2005, 2006) because it allows better protection of property rights (Mahoney, 2001). Indeed, greater judicial independence produces more impartial and predictable outcomes since no party can put any pressure on the judge.

These interactions between judicial institutions and the economy recently became an important issue after most of the European Union countries experienced years of recession and sluggish growth. These unfavourable economic conditions encouraged the search for potential growth-enhancing factors, improvement of the efficiency of judicial institutions being a serious candidate.

In this context the European Commission has defined a list of 19 questions relating to the functioning of national judicial systems and the application of EU civil procedures, in view of building a European judicial efficiency scoreboard.

This list of questions of the justice scoreboard focuses on civil and commercial justice and encompasses

- Business-friendliness of land and property registration, company registration, insolvency proceedings and obtaining licences
- Resources of justice, including budget, human resources, workload and ICT
- Use and accessibility of justice, including length and cost of procedures, use of simplified and ADR procedures

The European Commission has requested the Council of Europe, Commission for the Evaluation of the Efficiency of Justice (CEPEJ), with its strong experience in evaluating the judicial systems of Council of Europe Member States every two years since 2004, to conduct a study including draft country fiches for all EU Member States and a comparative report, reflecting the questions of the scoreboard⁶.

METHODOLOGY

The methodology used for this report is mainly based on the methodology used by CEPEJ for its bi-annual exercises, which are based on a "scheme for evaluating judicial systems", a questionnaire that the national correspondents of the CEPEJ (often established within ministries of justice) are to complete and whose replies are statistically processed and analysed by the CEPEJ⁷. To be able to carry out this evaluation, a precise methodology has been developed, but also a relationship of trust between the member States providing data on the one hand, the CEPEJ and the Secretariat who process the data on the other hand. The result is a comparable and consistent database from one cycle to another.

Such governmental work especially involves a permanent dialogue and a total transparency within the member States of the Council of Europe participating in the evaluation exercise.

The current report was based mainly on a selection of replies provided by national correspondents in the framework of the CEPEJ's main evaluation cycle. The principal exercise covered data from 2010, and it was agreed to use that reference year for all the judicial data collected in the context of this report. The

⁶ To write this report, the CEPEJ has appointed three experts:

- Eric Dubois (edubois@univ-paris1.fr) is Ph.D. in economics. His research deals with the interactions between institutions (especially political and judicial ones) and the economy. He is currently associated member to the Centre d'Economie de la Sorbonne (university of Paris 1). For this report, he has received the assistance of Nicolas Costes, Ph.D. in economics.

- Christel Schurrer (christel.schurrer@voila.fr) is a lawyer, specialised in European judicial systems and on the European Convention of Human Rights. She has collaborated with the CEPEJ, the CCJE (Consultative Council of European Judges) and the CCPE (Consultative Council of European Prosecutors) within the Council of Europe and has worked as a lawyer at the European Court of Human Rights.

- Marco Velicogna (marco.velicogna@irsig.cnr.it) is a researcher at the Research Institute on Judicial Systems of the National Research Council of Italy (IRSIG-CNR). His research interests are in the areas of judicial administration, comparative judicial systems, court technology, evaluation and the management of innovation. He has participated in a number of national and international research projects. He has also served as consultant for the Italian Ministry of Justice and collaborated with several international Institutions such as the United Nations Office on Drugs and Crime (UNODC), the Organization for Security and Co-operation in Europe (OSCE), and as scientific expert for the European Commission on the Efficiency of Justice of the Council of Europe (Cepej). Among others, Marco Velicogna is the author of the CEPEJ Study No. 17, Study on Council of Europe Member States Appeal and Supreme Courts' Lengths of Proceedings (2011), of the CEPEJ Study No. 7, Use of information and communication technologies (ICT) in European judicial systems (2008), and contributed to Contini F. & Lanzara G.F. (eds.) ICT and Innovation in the Public Sector (2009, Palgrave Macmillan).

⁷ The evaluation grid, individual responses of each state / entity and the 2010-2012 edition report to be released September 20, 2012 can be found on the CEPEJ website.
http://www.coe.int/t/dghl/cooperation/CEPEJ/default_EN.asp?

database of the CEPEJ was stabilised during the summer as regards this study, and completed on 23 July 2012.

The CEPEJ's database being unable to answer to all the questions in the scoreboard, it was decided to collect additional data through further questionnaires. From a methodological point of view and with a commitment to quality, consistency and comparability of the data supplied in the framework of the present report, the data gathering is primarily assigned to the national correspondents of the CEPEJ.

When national correspondents were not able to provide these data, it was decided to submit the data collected from other bodies for validation. This was particularly the case concerning "business-friendliness", which was not within the jurisdiction of the national correspondents and was therefore collected from the "Doing Business" database of the World Bank and validated (or refuted) by the CEPEJ correspondents.

This was also the case with other data which, given their specificity, could not be collected by the national correspondents within the allocated time. Specific questionnaires were then sent to other entities (UIHJ, association on mediation, representatives concerning mediation, contacts from addresses available on the e-portal justice, Eurochambres, etc.).

The answers provided by those bodies do not necessarily meet the requirements of reliability, comparability and quality of the CEPEJ; they receive a specific mention in the report.

For some issues on the scoreboard, no data could be provided. This does not mean that none were available, but rather that no data meeting the quality requirements adopted by the CEPEJ were available, or that no data meeting these requirements could be collected within the deadline set.

COUNTRY FICHES

The report is structured in two main parts: the first part examines the justice systems in the European Union member States individually through country-fiches (micro approach), and the second part provides a comparative analysis at EU27 level (macro approach).

In the first part of the report, country-fiches provide a detailed description and analysis of the most relevant elements contributing to the efficiency of the justice system at a country level.

The business-friendliness of each country's justice system and administration is examined vis-à-vis four main dimensions of business: land and other property registration, company registration, insolvency or bankruptcy proceedings and the procedures for obtaining licences necessary for business activities.

The country-fiches describe the resources available to the justice systems in terms of the allocated budget, but also in terms of human and technological resources and in relation to the system's caseload in other than criminal matters.

For each EU Member State, the country fiche provides information on the use and accessibility of the justice system through relevant indicators such as the number of incoming, resolved and pending cases, Disposition Time and Clearance Rate in the main categories of other than criminal cases.

Each fiche also provides additional information on structure of courts, case flow management and on-going reforms in order to allow a better and more systemic understanding of the justice systems.

The country fiches conclude with an analysis in terms of resources and efficiency of the system, comparing the available data with that of the other EU judicial systems and providing an assessment of strengths and shortcomings of the system with relevant recommendations.

The comparaison report highlights the criteria and indicators that are most relevant for improving the business environment and that are linked to economic growth. So recommendations focus mainly on these indicators.

A general recommendation is to set in place monitoring systems that allow for the systematic collection of comparable statistics in all relevant judicial activities. Indeed, for many Member States, data is missing on criteria, such as costs of proceedings, lengths and costs of insolvency proceedings, use of mediation and ADR, use of simplified procedures, duration and cost of enforcement, For a few Member States, the most basic data on the efficiency of the judicial system such as disposition time and clearance rate is missing. What is not measured cannot be evaluated and improved.

The country fiches provides a good overview of the functioning of the justice system in business and contract disputes, covering civil justice and some elements of administrative justice. Following the indications of the European Commission, the country fiches do not cover criminal justice and do not address other essential quality elements such as access to justice and independence of justice. Thereby, they do not provide a comprehensive view on the efficiency and the quality of the national justice systems.

COMPARISON REPORT

While in the first part, facts and figures on the performance of individual judicial systems are provided and insightful analyses (also in comparison to average and median EU trends) are made, one step is missing: the link with the economic situation has not been assessed yet.

To do that, and thus see which features of the justice system are important for the economy, we need to shift the level of analysis from the country level to a more macro level, namely the EU27 level. This is the objective of the comparative analysis part which is divided as follows: data presentation, statistical treatment and analysis, summary of the findings and recommendations.

The present report constitutes a new attempt to assess the link between the functioning of justice and the economy. To our knowledge, it is the first time that such assessment has relied not only on data from surveys or from coding but also actual data provided by the judicial authorities (number of judges, budget, etc.). This objective is pursued on a large scale (27 States and 29 judiciaries are involved) and by considering a large number of quantitative and qualitative variables.

The findings are preliminary but suggestive. They are preliminary because econometric processing should be implemented to have a more precise assessment. They are nevertheless suggestive because, though weak, correlations go in the expected direction and are statistically significant at standard levels.

The main conclusions are as follows.

Business-friendliness indicators should be improved in order to obtain better economic outcomes. Among the four business dimensions considered here, property registration and the licence system should be emphasised. Because they are related to growth, improving business-friendliness indicators relating to registering property and obtaining licences should permit a higher growth rate. In particular, a sharp decrease in the costs associated with these dimensions should enhance growth. A simplification of the procedure is also desirable.

The **efficiency of the justice system**, measured by the **Disposition Time and the Clearance Rate**, is clearly linked with the economy and in particular with the most widely used economic indicator, the GDP growth rate.

General recommendations are therefore quite straightforward: countries should improve the efficiency of their justice system in order to achieve higher growth. In other words, they should decrease their Disposition Time and increase their Clearance Rate.

What are the levers to use in order to improve these indicators?

The number of incoming cases has a negative correlation to Disposition Time, mainly because incoming cases are constituted by a collection of disparate categories of cases (such as non-litigious civil and commercial cases or land register cases which are repetitive, quickly settled and require few resources).

Less surprisingly, the **number of pending cases** has a positive correlation to Disposition Time. This number should therefore be diminished.

As a possible suggestion, courts of general jurisdiction can reduce their caseload in several ways.

By removing certain types of cases from the court dockets, caseloads can be made more manageable. Other possible solutions may include time standards, procedural simplification, implementation of specialised courts, use of technology (case tracking and management systems, Internet and Web technologies, video conferencing, etc.), and allocating more resources to the court system - financial and human resources among them.

Regarding **financial resources**, we obtained no clear-cut result when crossing budget indicators with efficiency indicators. It may mean that there is no need to modify the amount of budget but instead to change its distribution and to concentrate financial resources on items benefiting the efficiency of the system.

We came to broadly the same conclusions as regards **human resources** and especially the number of judges, the level in itself not being relevant. The geographical distribution of resources does not play a role in the determination of efficiency indicators.

The effort should therefore be directed at management and productivity (for example by improving competence).

Regarding **ICT**, the index of “systems for the registration and management of cases” has an impact on Clearance Rate. In a similar vein, the system for monitoring court activities appears to be linked to Disposition Time. Such systems should be therefore developed.

At the same time, particular attention should be paid to the actual functioning and performance of such technological systems, which provide positive results only if properly implemented and adopted.

The working groups of the CEPEJ are developing methodologies and guidelines for improving the efficiency and quality of justice, in particular the SATURN guidelines for judicial time management and guidelines for improving enforcement.

SCOREBOARD QUESTIONS (PREPARED BY EUROPEAN COMMISSION – DG JUSTICE)

European judicial efficiency Scoreboard The impact of justice systems on the economy

Business-friendliness

1. Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.
2. Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.
3. Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.
4. Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

NB: for measuring business-friendliness, the analysis should take into account the number of infringement cases (NIF, SOLVIT) against EU member States related to company law, property registration and insolvency proceedings

Resources of justice

5. Total annual approved public budget allocated to the courts (by sector of judiciary⁸ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)
6. The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).
7. Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

⁸ Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law.

8. Percentage of courts⁹ using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

NB: the data under criteria 4-7 should be also correlated with the population and national budget for the member States individually

Use and accessibility of justice

9. Case Disposition Time per sector of judiciary¹⁰ (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)
10. Clearance Rate and number of pending cases (cases not closed by final decision after 1 year per level of court i.e. 1st and 2nd instance) by sector of judiciary¹¹
11. Number, average duration and costs of non-criminal¹² court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used
12. Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State
13. Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.
14. Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)
15. Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary¹³)
16. Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)
17. Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary¹⁴.
18. Number of services of documents made on the basis of Regulation 1393/2007 on the service in the member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

⁹ Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law.

¹⁰ Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law. For each sector, please provide details on the average length of each court phase from the start of the case until enforcement (Time to 1st instance decision, time in appeal, time between judgement and enforcement).

¹¹ Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law.

¹² "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data along these 4 types of litigation.

¹³ Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law.

¹⁴ Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law. For tax cases, please indicate separately the percentage of recovered taxes

19. Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure.



Strasbourg, 15 January 2013

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Part 1: Country Fiches

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1. AUSTRIA

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Austria	EU27 Mean	Austria	EU27 Mean
Number of procedures	3	5	3 (100%)	1 (27%)
Time (days)	21	31	21 (100%)	9 (26%)
Cost (% of property value)	4.6	4.9	4.6 (100%)	1.1 (21%)
% of procedures possible by Internet	67	43	67	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	16235	682554	680712	18077

Disposition Time: 10 days (EU27 mean: 49 days / EU27 median: 24 days)

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Austria	EU27 Mean	Austria	EU27 Mean
Number of procedures	8	6	1 (13%)	1 (16%)
Time (days)	28	14	7 (25%)	2 (17%)
Cost (% of per capita GNI)	5.9	5.2	1.7 (29%)	0.8 (24%)
% of procedures possible by Internet	100	83	100	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	265326	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Austria	EU27 Mean
Time (years)	1.1	1.9
Cost (% of estate)	18.0	10.5
Recovery rate (%)	72.7	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	6373	6657
Number of firms	300745	408405
Ratio	2.1	1.6

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Austria	EU27 Mean
Number	2.0	5.1
Time (days)	53	39
Cost (€)	501	309

The OECD reports an index of 0 which places Austria below the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹⁵ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ¹⁶
TOTAL annual approved budget allocated to the functioning of all courts¹⁷	709,980,000	84.6	0.47%
Annual public budget allocated to (gross) salaries	369,730,000	44.1	0.25%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	47,970,000	5.7	0.03%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	103,630,000	12.4	0.07%
Annual public budget allocated to court buildings (maintenance, operating costs)	77,750,000	9.3	0.05%
Annual public budget allocated to investments in new (court) buildings	NAP		
Annual public budget allocated to training and education	1,100,000	0.1	0.00%
Other	109,800,000	13.1	0.07%

The overall budget of the justice system is 1,174,830,000 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, judicial protection of juveniles and functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	1,491	2,248	7,510	107	491	358
Number / population *100,000	17.8	26.8	89.5	1.3	5.9	4.3
Number / State + Local annual expenditure in Billions	9.9	14.9	49.9	0.7	3.3	2.4

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

Judges

¹⁵ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

¹⁶ General government expenditure is based on 2010 Eurostat data.

¹⁷ The figures include the public prosecution services and the budget of legal aid.

There are 1,491 professional judges sitting in ordinary and administrative courts, including 1,263 at first instance, 173 at second instance and 55 at highest instance. There are no professional judges sitting in courts on an occasional basis and no non-professional judges performing various judicial functions.

Non-judge staff

Of the 4,642 non-judge staff units of personnel who are working in ordinary and administrative courts, for 26 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 3,816 units of personnel are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Finally, there are 43 technical staff. In Austria, there are 757 Rechtspfleger or similar bodies with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal. "Rechtspfleger" are assigned the handling of certain first-instance transactions under civil law. They are bound by the instructions of the judge responsible for the case according to the distribution of court business, who may also reserve the handling of the legal case to themselves at any time and at any stage. "Rechtspfleger" may only issue court orders. The judges themselves may grant appeals against these orders, but there is also the legal remedy of requiring submission of the case to a judge. The scope of competences of "Rechtspfleger" comprise, inter alia, default actions, confirming the legal effect and enforceability of rulings by judges in their field of work, decisions on applications for legal aid proceedings handled by the court registrar and performing official acts on the basis of a request for judicial assistance by a domestic court or a domestic authority. "Rechtspfleger" have a particularly comprehensive workload in forced collection proceedings and in personal bankruptcy cases. In addition, they maintain the land register and the trade register. Other areas of responsibility are probate and custody proceedings (non-litigious matters).

The ratio of professional judges sitting in courts to non-judge staff working in courts is 1 to 3.1.

Other actors of the non-criminal justice system

Lawyers: there are 107 EU lawyers, established on the basis of Lawyers Directive 98/5 (82 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC) and 25 EU lawyers who have gained admission to the host member State under Art. 10 of Directive 98/5/EC). In civil cases, lawyers have no monopoly on legal representation, only in proceedings before district courts (Bezirksgerichte), when the value of the litigation exceeds € 5000 or before the higher courts, in appeal cases and before the Civil Supreme Courts representation by a lawyer is mandatory. In administrative cases, lawyers have no monopoly on legal representation, only for appeals against decisions at last instance and for applications and complaints lodged before the constitutional court and the higher administrative court is representation by a lawyer mandatory. This number does not include legal advisors.

Notaries: they are private professionals under the authority of public authorities. Notaries have duties in the framework of civil procedure, in the field of legal advice and to certify the authenticity of legal deeds and certificates. In addition to the above activities, notaries provide various legal services in connection with real estate transactions and corporate affairs. Under a further amendment to the notaries act, authentic instruments can be set up electronically. Furthermore, notaries act as Probate Commissioners for winding up estates and in connection with certain segments of real estate transactions and corporate affairs.

Bailiffs acting as **enforcement agents**: enforcement agents are bailiffs working in a public institution.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non-criminal cases/Professional judges sitting in courts full time	Incoming first instance non criminal cases/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis,	Incoming first instance non-criminal cases/ (judges and
--	--	---

	non-professional judges, and Rechtspfleger for countries which have such category	administrative personnel)
	2,415	1,602
		587

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Austria 2010 data shows that computer facilities for supporting judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection, are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility to follow up on a case online, the access to court electronic registers, the services for the electronic processing of small claims and undisputed debt recovery, e-filing are available in 100% of courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹⁸

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	

¹⁸ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Austria	4.0	4.0	4.0	4.0
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Austria	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	77	135	70	NAP
	DT 2008	53	129	68	NAP
	DT 2010	54	129	66	NAP
Second instance	DT 2006	64	NA	NA	NAP
	DT 2008	73	NA	NA	NAP
	DT 2010	73	NA	NA	NAP
Highest instance	DT 2006	104	NA	NA	NAP
	DT 2008	105	NA	NA	NAP
	DT 2010	117	NA	NA	NAP

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2011	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

The number of hearings is not available in Austria.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Austria	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2011	First	100.19%	100.09%	102.09%	
	Second	99.31%			
	Highest	99.24%			

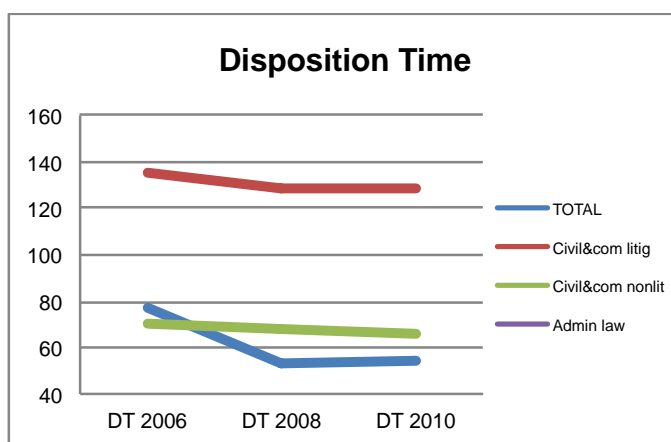
Austria	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	538122	39762	144177	NAP
	Second	6589	NA	NA	NA
	Highest	789	NA	NA	NA

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

In this period, the **total** number of incoming non-criminal cases increases by an average of 0.1% per year, rising from 3,591,204 in 2006 to 3,625,816 in 2008 to 3,600,472 in 2010, while the number of resolved cases increases by an average of 1.6% per year, rising from 3,388,857 in 2006 to 3,635,938 in 2008 to 3,607,341 in 2010. Data on first instance courts Disposition Time for the total number of other than non-criminal cases, in the period 2006-2010, shows an overall positive trend, decreasing by an average of 8.4% per year, decreasing from 77 days in 2006 to 53 days in 2008 and then slightly increasing to 54 days in 2010.

At the same time, the number of incoming **litigious civil and commercial cases** decreases by an average of 0.2% per year, from 113,774 in 2006 to 110,497 in 2008 to 112,772 in 2010, while the number of resolved cases rises by an average of 0.6% per year, from 110,302 in 2006 to 111,245 in 2008 to 112,870 in 2010. Disposition Time in litigious civil and commercial cases shows a stable situation, decreasing by an average of 1.2% per year, from 135 days in 2006 to 129 days in 2008 to 129 days in 2010.

The number of incoming **non-litigious civil and commercial cases** decreases by an average of 2.2% per year, from 853,155 in 2006 to 827,066 in 2008 to 781,803 in 2010, while the number of cases resolved decreases by an average of 1.8% per year, from 859,534 in 2006 to 822,941 in 2008 to 798,181 in 2010.



Compared to first instance Disposition Time values for the same years,¹⁹ all available Disposition Time of second and highest instance courts values for 2006, 2008 and 2010 are in line.

Q11: Number, average duration and costs of non-criminal²⁰ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	177	NA	NA			NA
Small claim (not Payment Order)	NA	NA	NA	NA			NA
Payment Order	91026	506572	514987	82611	59	101.7%	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	200415	894575	911051	183939	74	101.8%	NA
litigious	39860	112772	112870	39762	129	100.1%	NA
non-litigious	160555	781803	798181	144177	66	102.1%	NA

The ICT system ERV-Elektronischer Rechtsverkehr supports e-filing and electronic processing of simplified procedures in 100% of the courts. Data show that the system is fully operational.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Austria (UIHJ data)

¹⁹ Comparison with first instance DT has been done according to the following formulas:

For second instances:

$$\left(\frac{(\text{FirstInstance DT CaseCategory X, Year Y})}{(\text{MeanDT EU27FirstInstanceCaseCategory X, 2010})} \right) - \left(\frac{(\text{SecondInstance DT CaseCategory X, Year Y})}{(\text{MeanDT EU27SecondInstanceCaseCategory X, 2010})} \right) \\ \left(\frac{(\text{FirstInstance DT of CaseCategory X, Year Y})}{(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010})} \right)$$

For highest instances:

$$\left(\frac{(\text{FirstInstance DT CaseCategory X, Year Y})}{(\text{MeanDT EU27FirstInstanceCaseCategory X, 2010})} \right) - \left(\frac{(\text{HighestInstance DT CaseCategory X, Year Y})}{(\text{MeanDT EU27HighestInstanceCaseCategory X, 2010})} \right) \\ \left(\frac{(\text{FirstInstance DT of CaseCategory X, Year Y})}{(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010})} \right)$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

²⁰ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	200415	894575	911051	183939	74	101.8%	NA
litigious	39860	112772	112870	39762	129	100.1%	NA
non-litigious	160555	781803	798181	144177	66	102.1%	NA

The Austrian legal system provides for mediation procedures. Although it is not possible to receive legal aid for mediation procedures, the Federal Ministry of Economics, Family and Youth grants benefit for mediation in family matters, depending on the family's income.

Austria has implemented European Parliament and Council Directive 2008/52/EC of 21 May 2008 on certain aspects of mediation in civil and commercial matters in national law. This was done by establishing a new law "Bundesgesetz über bestimmte Aspekte der grenzüberschreitenden Mediation in Zivil- und Handelsachen in der Europäischen Union (EU-MediatG) and by amending the Code of Civil Procedure (new § 433a). The relevant provisions entered into force on 1 May 2011.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	311434	1159004	1171894	298544	93	101.1%
2008	288528	1117035	1133016	272547	88	101.4%
2010	259897	1092105	1085046	266956	90	99.4%

Data on first instance courts' enforcement procedure, in the period 2006-2010, shows a stable situation, decreasing by an average of 0.9% per year from 93 days in 2006 to 88 days in 2008 to 90 days in 2010.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Austria (UIHJ data)

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Austria (UIHJ data)

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for Austria (UIHJ data)

According to the European Judicial Atlas in Civil Matters, no fixed fees apply to the service of documents under Regulation 1393/2007²¹.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	0	0	0	0			
2008	NA	NA	NA	NA			NA
2010	NA	NA	NA	NA			NA

In 2010, the average length of proceedings in employment dismissal cases is 176 days in 1st instance courts. For 2nd and 3rd instance courts it is not available. The % of cases pending for more than 3 years is not available.

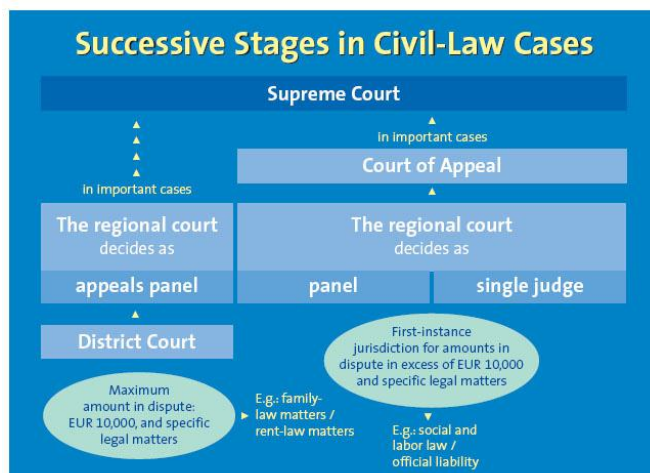
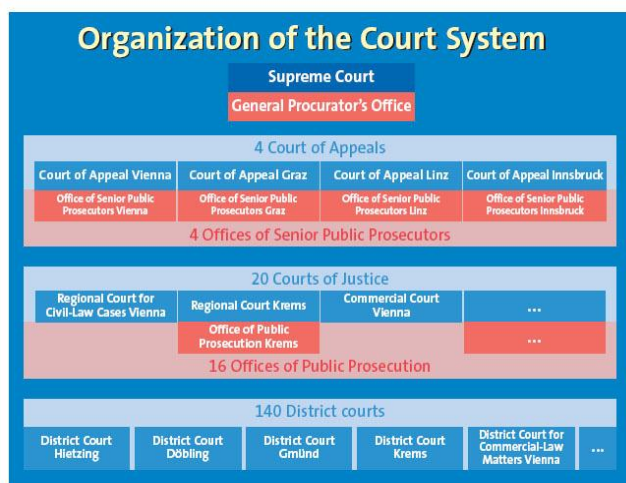
Data apart from what was supplied in connection with the CEPEJ evaluation are not available. In particular, the distinction according to motive is not registered for court statistics, because it is considered to be of no interest for court management (cases are the same regardless of motive, therefore the extra effort to register them is of no benefit).

²¹ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_at_en.jsp?countrySession=15&

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Austria, there are 154 courts of first instance with general jurisdiction (Bezirksgerichte and Landesgerichte) and 7 specialised courts of first instance including 2 commercial courts, 1 labour court, 2 courts for enforcement of criminal sanctions and 2 other specialised courts of first instance. In general, every court has to deal with all judicial issues; in the biggest Austrian cities, certain courts are specialised, i.e. five in Vienna (civil cases, criminal cases, commercial cases [2 x], employment and social welfare cases) and two in Graz (criminal cases, residual cases). There are 20 Landesgerichte and 4 Oberlandesgerichte as courts of second instance and 1 Oberster Gerichtshof as high court.



COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs. There is an Operational Information System to support such activity. The main performance indicators at the level of the court system are: incoming cases, closed cases and pending cases and backlogs. No performance targets are set at the level of the court. There are no specific quality standards for the judicial system as a whole and no quantitative performance targets (for instance, a number of cases to be entertained per month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time does exist, but there is no system to monitor waiting time during court procedures. Concerning the evaluation of the overall functioning of courts, there is an annual audit plan with regular audits every 4 to 7 years.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Austria	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

Concerning the budget, a complete new budget law will be in place in 2013.

Austria intends to ratify the following Hague Conventions: Convention of 13.1.2000 on the International Protection of Adults; Convention of 25.10.1980 on International Access to Justice; Convention of 18.3.1970 on the Taking of Evidence Abroad in Civil or Commercial Matters; Convention of 15.11.1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

In addition: reorganisation of translation services, evaluation of the use of video technology to record court hearings.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the calculated total annual approved budget allocated to all courts in Austria (as the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%) is 497,937,600 € (neither public prosecution nor legal aid budget is included). This corresponds to 59.4 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to a EU27 median of 39.6 € per inhabitant. The calculated total annual approved budget allocated to all courts is 0.33% of general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to a EU27 median of 0.40%.

As regards human resources, Austria has 17.8 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and a EU27 median of 17.9. Furthermore, there are 26.8 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 73.1 persons (judges and non-judicial staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 89.5, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 5.0 compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases, but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 42.9, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 1.3, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Austria is 54.4 days, which corresponds to 0.22 times the EU27 average Disposition Time and 0.37 times the EU27 median Disposition Time. The situation is broadly stable compared to the 53.1 days of 2008. At the same time, the situation in 2010 is an improvement on the 77.4 days of 2006. The Clearance Rate in 2010 is 100.2%, which means that pending cases are decreasing slightly and the situation is stable.

As regards Disposition Time for the litigious civil and commercial cases, in 2010 it is 128.6 days, which corresponds to 0.45 times the EU27 average Disposition Time and 0.60 times the EU27 median Disposition Time. The situation is an improvement on the 128.7 days in 2008 and the 134.8 days in 2006. The Clearance Rate in 2010 is 100.1%, which means that pending cases are decreasing slightly and the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as “favourable”. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean²².

	Austria			EU27		
	Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	3	21	4.6	5	31	4.9
Starting business	8	28*	5.9	6	14	5.2
Licences	2.0	53*	501	5.1	39	309

²² See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate²³.

	Austria			EU27		
	Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy	1.1	18.0	72.7	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Calculated budget in Euro per inhabitant	Calculated courts budget as % of public expenditure
Austria	59.4	0.33%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The calculated budget²⁴ allocated to all courts in Austria is in line with the EU27 mean.

	Judges / inhabitants	Judge-like agents/ inhabitants	Judges and administrative personnel/ inhabitants	Lawyers / inhabitants	Lawyers / judges
Austria	17.8	26.8	73.1	89.5	5.0
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel and lawyers are in line with the EU27 mean.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a

²³ See the methodological note for more details on this assessment.

²⁴ As the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%.

justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Austria	42.9	1.3
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

While the number of litigious civil and commercial cases per 100 inhabitants is in line with the EU27 mean, the number of other than criminal cases is much higher. This is related to the fact that the Austrian court system manages cases which are not part of "core court business", such as management of land registers.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
Austria	77.4	53.1	54.4	100.19%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	

STDEV (S) EU27	242.3	263.9	272.3	
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Disposition Time for other than criminal cases is good, below half that of the EU27 mean and the Clearance Rate, is around 100% which means that the situation is stable and the system is capable of dealing with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Austria	134.8	128.7	128.6	100.09%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases is good, below half that of the EU27 mean and Clearance Rate is around 100% which means that the situation is stable and the system is capable of dealing with incoming cases.

The efficiency of the system as far as the main categories are concerned is good.

Other strengths: ICT infrastructure is well developed and implemented

Other shortcomings: there are no specific quality standards for the judicial system as a whole; no system to monitor waiting time during court procedures; it is impossible to assess employment dismissal cases; not enough data on enforcement of judicial decisions; no data on arbitration and mediation.

7. RECOMMENDATIONS

Business-friendliness:

The procedure for starting a business should be simplified by removing 2 or 3 steps. The time taken by such procedure should also be sharply reduced, with 2 weeks as an objective. Regarding insolvency and bankruptcy procedures, their cost should be sharply reduced with a cost of 15% as an objective. Finally, a reduction of the time required to obtain all the licences necessary for operation should be envisaged, and the cost of these licences should be sharply decreased.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Austria, the court system is performing well, and no specific recommendation is required.

Additional recommendations:

The possibility of introducing quality standards for the judicial system as a whole should be explored. Data collection on specific topics such as insolvency proceedings, employment dismissal cases, arbitration and mediation should be introduced.

ANNEX: COUNTRY-STATISTICS

First instance

Austria	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	208,441	37,260	171,181	311,434	12,481	NA	NA	45,191
	2008	538,893	39,975	149,964	288,528	14,838	NA	NAP	45,588
	2010	544991	39860	160555	259897	16235	NA	NAP	48835
Incoming (number of cases)	2006	966929	113,774	853,155	1,159,004	677,363	215,119	NA	572,789
	2008	3625816	110,497	827,066	1,117,035	690,225	241,658	NAP	639,335
	2010	3600472	112772	781803	1092105	682554	265326	NAP	605186
Resolved (number of cases)	2006	969,836	110,302	859,534	1,171,894	674,338	NA	NA	572,789
	2008	3,635,938	111,245	822,941	1,133,016	689,516	241,658	NAP	604261
	2010	3607341	112870	798181	1085046	680712	NA	NAP	604261
Pending 31 Dec. (number of cases)	2006	205,534	40,732	164,802	298,544	15,506	NA	NA	44,599
	2008	528,771	39,227	154,089	272,547	15,547	NA	NAP	47,361
	2010	538122	39762	144177	266956	18077	NA	NAP	49760

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	100%	97%	101%	101%	100%			100%
CR	2008	100%	101%	100%	101%	100%	100%		95%
CR	2010	100%	100%	102%	99%	100%			100%

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	77	135	70	93	8			28
DT (Days)	2008	53	129	68	88	8			29
DT (Days)	2010	54	129	66	90	10			30

Second instance

Austria	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	6,253	NA	NA	NA	NA	NA	NA	NA
	2008	6,317	NA	NA	NA	NA	NA	NAP	NA
	2010	6362	NA	NA	NA	NA	NA	NA	NA
Incoming (number of cases)	2006	35391	NA	NA	NA	NA	NA	NA	NA
	2008	34251	NA	NA	NA	NA	NA	NAP	NA
	2010	33111	NA	NA	NA	NA	NA	NA	NA
Resolved (number of cases)	2006	35,410	NA	NA	NA	NA	NA	NA	NA
	2008	33,777	NA	NA	NA	NA	NA	NAP	NA
	2010	32884	NA	NA	NA	NA	NA	NA	NA
Pending 31 Dec. (number of cases)	2006	6,234	NA	NA	NA	NA	NA	NA	NA
	2008	6,791	NA	NA	NA	NA	NA	NAP	NA
	2010	6589	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	100%							
CR	2008	99%							
CR	2010	99%							
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	64							
DT (Days)	2008	73							
DT (Days)	2010	73							

Highest instance

Austria	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan.	2006	871	NA	NA	NA	NA	NA	NA	NA
	2008	852	NA	NA	NA	NA	NA	NAP	NA
	2010	770	NA	NA	NA	NA	NA	NA	NA
Incoming	2006	2914	NA	NA	NA	NA	NA	NA	NA
	2008	2857	NA	NA	NA	NA	NA	NAP	NA
	2010	2489	NA	NA	NA	NA	NA	NA	NA
Resolved	2006	2,947	NA	NA	NA	NA	NA	NA	NA
	2008	2,882	NA	NA	NA	NA	NA	NAP	NA
	2010	2470	NA	NA	NA	NA	NA	NA	NA
Pending 31 Dec.	2006	838	NA	NA	NA	NA	NA	NA	NA
	2008	827	NA	NA	NA	NA	NA	NAP	NA
	2010	789	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
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CR 2006 101%

CR 2008 101%

CR 2010 99%

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
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DT (Days) 2006 104

DT (Days) 2008 105

DT (Days) 2010 117



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

BELGIUM

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

2. BELGIUM

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Belgium	EU27 Mean	Belgium	EU27 Mean
Number of procedures	8	5	NA (NA)	1 (27%)
Time (days)	63	31	NA (NA)	9 (26%)
Cost (% of property value)	12.7	4.9	NA (NA)	1.1 (21%)
% of procedures possible by Internet	NA	43	NA	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Belgium	EU27 Mean	Belgium	EU27 Mean
Number of procedures	3	6	NA (NA)	1 (16%)
Time (days)	4	14	NA (NA)	2 (17%)
Cost (% of per capita GNI)	4.9	5.2	NA (NA)	0.8 (24%)
% of procedures possible by Internet	NA	83	NA	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Belgium	EU27 Mean
Time (years)	0.9	1.9
Cost (% of estate)	4.0	10.5
Recovery rate (%)	87.3	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	NA	NA
Number of firms	NA	NA
Ratio	NA	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Belgium	EU27 Mean
Number	5.2	5.1
Time (days)	35	39
Cost (€)	248	309

The OECD reports an index of 2 which places Belgium in the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary²⁵ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget ²⁶	Budget in €	Budget in €/Population	% of general government expenditure ²⁷
TOTAL annual approved budget allocated to the functioning of all courts	934,837,000	86.2	0.50%
Annual public budget allocated to (gross) salaries	621,115,000	57.3	0.33%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	37,623,000	3.5	0.02%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid	107,464,000	9.9	0.06%
Annual public budget allocated to court buildings (maintenance, operating costs)	68,767,000	6.3	0.04%
Annual public budget allocated to investments in new (court) buildings	6,341,000	0.6	0.00%
Annual public budget allocated to training and education	5,220,000	0.5	0.00%
Other	88,307,000	8.1	0.05%

The overall budget of the justice system is 1,802,642,657 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system and functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	1,607	4,261	16,517	133	1,231	530
Number / population *100,000	14.8	39.3	152.4	1.2	11.4	4.9
Number / State + Local annual expenditure in Billions	8.6	22.8	88.3	0.7	6.6	2.8

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

²⁵ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

²⁶ For Belgium, the figures include the public prosecution budget and legal aid budget. For calculated court budget, see sections 5 and 6.

²⁷ General government expenditure is based on 2010 Eurostat data.

There are 1,607 professional judges sitting in ordinary and administrative courts, including 1,275 at first instance, 305 at second instance and 27 at highest instance. There are no professional judges sitting in courts on an occasional basis. In addition to professional judges, in Belgium there are 2,654 non-professional judges performing various judicial functions.

Non-judge staff

Of the 5,632 non-judge staff units of personnel who are working in ordinary and administrative courts, for 1,768 the main tasks are to assist judges with case file preparation, as well as assist during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for smooth proceedings in the courts (including clerks and legal advisers). Another 2,921 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). This number includes administrative personnel of the clerks' offices, personnel delegated to other institutions of the judicial organisation. Finally, there are 943 technical staff. In Belgium, there is no *Rechtspfleger* or a similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff working in courts is 1 to 3.5.

Other actors of the non-criminal justice system

Lawyers: there are 133 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC). In civil and administrative cases, lawyers have a monopoly on legal representation, although derogations are provided for by specific law dispositions and regulations:

- The parties may appear in person (Art. 728§1 of the Judicial Code);
- Before Justices of the Peace, Commercial Courts and Labour Courts, parties may be represented by a spouse or a relative (Art. 728§2 of the Judicial Code);
- Before Labour Courts, delegates of workers' or employees' representative organisations can represent the worker or employee. Before the same courts, self-employed workers can, in proceedings relating to their own rights and obligations as self-employed or disabled workers, similarly be represented by a delegate from a representative organisation of self-employed workers (Art. 728§3 of the Judicial Code);
- In proceedings relating to the minimum means of subsistence and the right to social integration and social assistance, litigants can be represented by delegates of social organisations defending the interests of the group of individuals concerned by the relevant legislation (in the same cases, the public social assistance centre is represented either by a lawyer or by a full member of staff delegated by the latter; the Minister responsible for social assistance can be represented by a civil servant) (Art. 728§3 of the Judicial Code);
- Appellants may be represented by the prosecution in cases relating to the protection of custody rights and cross-border visits (Art. 728§5 of the Judicial Code);
- In tax matters, the State can be represented by tax department officials (Art. 379 of the 1992 Income Tax Code);
- There are also special rules on proceedings before the *Conseil d'Etat* and the Constitutional Court.

Notaries: they are public agents. Notaries have duties in the framework of civil procedure, in the field of legal advice and to certify the authenticity of legal deeds and certificates. Subject to public authority rights, they have the sole capacity for conducting public sales of buildings, government stocks and mortgage debts.

Bailiffs acting as **enforcement agents:** Bailiffs are ministerial and public officers who discharge their duties as independent professionals. Bailiffs have exclusive responsibility for drawing up and notifying writs and implementing judicial decisions, as well as enforcement orders or decisions. They may also be appointed to conduct purely factual investigations, excluding personal opinions on possible *de facto* or *de jure* consequences; they may obtain from the registry copies of any dispatches, documents or extracts from procedural acts and submit any applications which they are legally empowered to sign; they can also, at the request of the counsel for the parties, submit any other applications to the registry; they may certify copies and translations of documents of which they hold the minutes and can draft extracts of all acts produced by their specific ministry. Bailiffs can also conduct non-litigious debt collections.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non-criminal cases in 2010/ (judges and administrative personnel)
NA	NA	NA

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management in less than 50% of courts, while there are electronic tools for tracking of cases in more than 50% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Belgium 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, e-mail, Internet connection, are available in 100% of courts, while electronic files are available in more than 50% of courts. As to the electronic communication between courts and their institutional environment, the possibility of access to the courts' electronic registers is available in less than 10% of courts; following up on a case online, using a service for the electronic processing of small claims or undisputed debt recovery, e-filing are not available in the courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):²⁸

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility

²⁸ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.

- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Belgium	4.0	2.7	0.9	2.5
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Belgium	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA
Second instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA
Highest instance	DT 2006	203	NA	NA	NA
	DT 2008	442	NA	NA	NA
	DT 2010	445	NA	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For Belgium, it is possible to calculate Disposition Time only for the total number of other than criminal cases at highest instance. In the period of 2006-2010, Disposition Time more than doubled, growing from 203 days in 2006, slightly below the EU27 2010 median value for that category of cases, to 442 days in 2008, and to 445 days in 2010 (more than the double of the EU27 2010 median value).

Q10: Clearance Rate and number of pending cases by sector of judiciary

Belgium	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2011	First	NA	NA	NA	NA
	Second	NA	NA	NA	NA
	Highest	91.61%	NA	NA	NA

Belgium	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	NA	NA	NAP	NA
	Second	NA	NA	NAP	NA
	Highest	1237	NA	NAP	NA

Q11: Number, average duration and costs of non-criminal²⁹ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Small claim (not Payment Order)	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Payment Order	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	687056	NA	NA	NA	NA	NA
non-litigious	NAP	NAP	NAP	NAP	NA	NA	NA

Belgium does not have ICT applications to support e-filing and electronic processing of simplified procedures.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

UIHJ data: unknown

²⁹ For the purpose of this scoreboard, a "non-criminal court case" shall include, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
1. Civil mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
2. Family mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
3. Administrative mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
4. Employment dismissal mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	687056	NA	NA	NA	NA	NA
non-litigious	NAP	NAP	NAP	NAP	NA	NA	NA

Mediation: in Belgium, a court annexed mediation or a private mediator worked on civil and commercial cases, administrative cases and family law cases (ex. divorce). There are 1099 accredited or registered mediators who practice judicial mediation. There is a possibility to receive legal aid for mediation procedure.

Arbitration: any dispute which has emerged or may emerge from a specific legal relationship and which is open to transaction can be the subject of an arbitration agreement. Anyone who has the capacity or power to make a transaction can conclude an arbitration agreement.

Conciliation: in Belgium, parties may also be the subject of conciliation. Attempts to achieve conciliation may be either mandatory or optional. In the event of an agreement, the hearing is concluded with a reconciliation protocol.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

In connection with the effectiveness of domestic law enforcement procedures, the average length of civil and commercial enforcement proceedings is unknown. As regards the maximum period for enforcement of a judicial decision in civil or commercial matters, Belgium points out that apart from the *actio judicati* limitation (usually 10 years) and grounds for suspension and interruption, only the "reasonable length of proceedings" concept is applicable. The enforcement officer responsible for executing the judicial decision may allow the debtor to pay in instalments, in agreement with the creditor if necessary. In such cases, there is no prescribed deadline and the parties are free to decide on a time-limit for payment. The agreement is valid until the debt has been fully repaid, unless the creditor decides at some point to terminate the agreement either because he wishes to expedite recovery of the debt or because the agreement has lapsed owing to debtor default. This often facilitates full recovery of the debt, and is used by bailiffs in most cases (UIHJ data).

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

UIHJ data: unknown

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

UIHJ data: unknown

According to the European Judicial Atlas in Civil Matters, the costs of service of document according to Regulation 1393/2007 by a bailiff correspond to a flat-rate fee of 135 euros per service payable by a physical person or a legal entity to whom the writ is addressed before any intervention in proceedings³⁰.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

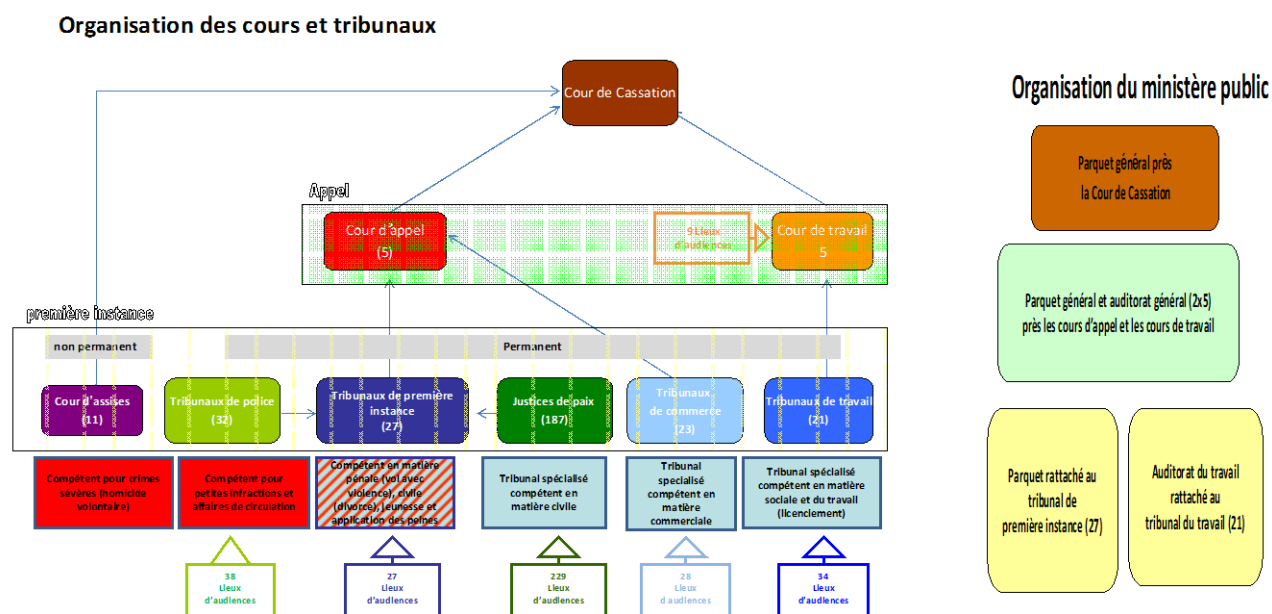
Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA	NA

³⁰ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_be_en.jsp?countrySession=7&

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

Belgium has 27 ordinary law courts of first instance and 263 specialised courts of first instance, including 23 commercial courts, 21 labour courts and 219 other specialist courts (32 police courts and 187 justices of the peace).



COURT STATISTICS AND CASE-FLOW MANAGEMENT

There is no system to evaluate regularly in terms of performance and outputs the activity of each court and no defined performance and quality indicators. There are no performance targets defined at the level of the court and there are no specific quality standards for the whole judicial system. There are no quantitative performance targets (for instance, a number of cases to be addressed in a month) defined for each judge. There is a system to monitor backlogs and cases that are not processed within a reasonable timeframe for civil cases, but not for the administrative cases. There is no system to monitor waiting time during court procedures.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Belgium	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

Where judicial organisation is concerned, the Governmental agreement provides for at least halving the number of judicial districts, while guaranteeing the preservation of existing judicial premises. A major reform involving decentralisation and redistribution of powers of budgetary and staff management in the judiciary is also under consideration. The new Government hopes to introduce unified organisation for court management, by district or jurisdiction. This single structure will be responsible for managing budgets, staff and material resources, as well as staff horizontal mobility and more effective use of expert knowledge. A district-by-district management agreement will be concluded setting out clear, operational goals. This agreement will also cover operational funds. A management board will be responsible for implementing this agreement. The board will comprise the Court Presidents and a full-time manager.

Moreover, the Parliament is currently discussing setting up specialist chambers to deal with family cases, coming under the first-instance courts.

In connection with the Higher Court of Justice: its role will be reviewed in order to improve its external review duties.

The bailiffs' statute will also be reformed.

Furthermore, the new Government is planning new legislation in the fields of real estate securities, human rights and family rights, law of inheritance for disabled dependent survivors, incapacities, arbitration, judicial experts and expert reports. The Government will be rationalising access to appeal procedures with due regard to citizens' rights to challenge judicial decisions concerning them.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of 27 European Union member States (EU27).

In 2010, the calculated total annual approved budget allocated to all courts in Belgium (as the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%) is 618,847,920 € (neither public prosecution nor legal aid budget is included). This corresponds to 57.1 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The calculated total annual approved budget allocated to all courts is 0.33% of general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Belgium has 14.8 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 39.3 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and *Rechtspfleger* for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 91.3 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 152.4, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 10.3, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload a justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and civil and litigious commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is not available, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 6.3, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

Data on 2010 Disposition Time for the total number of other than criminal cases is not available.

Data on 2010 Disposition Time for litigious civil and commercial cases is not available.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable, A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean³¹.

	Belgium			EU27		
	Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	8	63	12.7	5	31	4.9
Starting business	3	4*	4.9	6	14	5.2
Licences	5.2	35*	248	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate³².

	Belgium	EU27
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³¹ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

³² See the methodological note for more details on this assessment.

	Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy	0.9	4.0	87.3	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Calculated courts budget in Euro per inhabitant	Calculated courts budget as % of public expenditure
Belgium	57.1	0.33%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The calculated budget³³ allocated to all courts in Belgium is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Belgium	14.8	39.3	91.3	152.4	10.3
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel and lawyers are in line with the EU27 mean.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times

³³ As the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%.

the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Belgium	not available	6.3
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

While the number of other than criminal cases per 100 inhabitants is not available, the number of litigious civil and commercial cases per 100 inhabitants is much higher than the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
Belgium	NA	NA	NA	NA
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Deficiency: Disposition Time for other than criminal cases is not available.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Belgium	NA	NA	NA	NA
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Deficiency: Disposition Time for litigious civil and commercial cases is not available.

Other shortcomings : no data is available for specific categories of cases such as employment dismissal cases; there is no quantitative data on mediation; evaluation and monitoring systems are not present, ICT infrastructure is not adequate, especially as communication between courts and parties is concerned.

7. RECOMMENDATIONS

Business-friendliness:

The procedure for registering property should be simplified by removing 2 or 3 steps. The duration of this procedure should also be decreased with 20 days as an objective. Again, the cost necessary to register property should be sharply reduced with a cost of 5% of the GNI as an objective.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate). This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system. The number of incoming civil and commercial litigious cases per 100 inhabitants is very high. The possibility to better explore the sources of such high level of litigiosity should be considered. Consistency of judicial decisions and predictability of the outcomes of cases should be assessed. The strengthening of ADR should also be actively pursued.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance.

In Belgium data on the judicial system efficiency, which can be compared with that of other EU countries, is insufficient and should be collected and made available.

Additional recommendations:

Monitoring and evaluating systems should be developed.

Data on insolvency, ADR and mediation should be collected.

ICT infrastructure should be extended, especially with the development of tools for the communication between courts and parties. It could be useful to start from the development of ICT systems to support simplified procedures such as payment orders and small claims in order to gain the experience needed to manage more complex e-services. In other EU national contexts (i.e. UK England and Wales, Slovenia etc.), the creation of a single national electronic jurisdiction for the management of such claims has resulted in reduced technological and organisational complexity and a more efficient use of resources.

ANNEX: COUNTRY-STATISTICS

First instance

Belgium	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	PA	NA	NA	NAP	NA	NA
	2008	NA	NA	NAP	NA	NAP	NAP	NAP	NAP
	2010	NA	NA	NAP	NA	NA	NAP	NA	NAP
Incoming (number of cases)	2006	NA	317,290	PA	NA	NA	PA	NA	NA
	2008	NA	661,149	NAP	NA	NAP	NAP	NAP	NAP
	2010	NA	687056	NAP	NA	NA	NAP	NA	NAP
Resolved (number of cases)	2006	NA	NA	NAP	NA	ND	NAP	NA	NA
	2008	NA	NA	NAP	NA	NAP	NAP	NAP	NAP
	2010	NA	NA	NAP	NA	NA	NAP	NA	NAP
Pending 31 Dec. (number of cases)	2006	NA	NA	NAP	NA	NA	NAP	NA	NA
	2008	NA	NA	NAP	NA	NAP	NAP	NAP	NAP
	2010	NA	NA	NAP	NA	NA	NAP	NA	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	NA	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Second instance

Belgium	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NAP	NA	ND	PA	ND	NA
	2008	NA	NA	NAP	NA	NA	NAP	NA	NA
	2010	NA	NA	NAP	NA	NA	NAP	NA	NAP
Incoming (number of cases)	2006	NA	32,822	NAP	NA	NA	NAP	NA	NA
	2008	NA	29,758	NAP	NA	NA	NAP	NA	NA
	2010	NA	31745	NAP	NA	NA	NAP	NA	NAP
Resolved (number of cases)	2006	NA	NA	NAP	NA	NA	NAP	NA	NA
	2008	NA	NA	NAP	NA	NA	NAP	NA	NA
	2010	NA	NA	NAP	NA	NA	NAP	NA	NAP
Pending 31 Dec. (number of cases)	2006	NA	NA	NAP	NA	NA	NAP	NA	NA
	2008	NA	NA	NAP	NA	NA	NAP	NA	NA
	2010	NA	NA	NAP	NA	NA	NAP	NA	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	NA	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Highest instance

Belgium	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	1,642	NA	NA	NA	NA	NA	NA	NA
	2008	1,166	NA	NAP	NA	NAP	NAP	NA	NA
	2010	1144	NA	NAP	NA	NAP	NAP	NA	0
Incoming (number of cases)	2006	2957	NA	NA	NA	NA	NA	NA	NA
	2008	877	NA	NAP	NA	NAP	NAP	NA	NA
	2010	1108	NA	NAP	NA	NAP	NAP	NA	1
Resolved (number of cases)	2006	2,953	NA	NA	NA	NA	NA	NA	NA
	2008	924	NA	NAP	NA	NAP	NAP	NA	NA
	2010	1015	NA	NAP	NA	NAP	NAP	NA	1
Pending 31 Dec. (number of cases)	2006	1,646	NA	NA	NA	NA	NA	NA	NA
	2008	1,119	NA	NAP	NA	NAP	NAP	NA	NA
	2010	1237	NA	NAP	NA	NAP	NAP	NA	0

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	100%	NA	NA	NA	NA	NA	NA	NA
CR	2008	105%	NA	NA	NA	NA	NA	NA	NA
CR	2010	92%	NA	NA	NA	NA	NA	NA	100%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	203	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	442	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	445	NA	NA	NA	NA	NA	NA	0



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

BULGARIA

Report
prepared by

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Marco Velicogna

experts appointed by the Bureau of the CEPEJ

Report prepared for
the European Commission (Directorate General Justice)

3. BULGARIA

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Bulgaria	EU27 Mean	Bulgaria	EU27 Mean
Number of procedures	8	5	0 (0%)	1 (27%)
Time (days)	15	31	0 (0%)	9 (26%)
Cost (% of property value)	3.9	4.9	0 (0%)	1.1 (21%)
% of procedures possible by Internet	0	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Bulgaria	EU27 Mean	Bulgaria	EU27 Mean
Number of procedures	4	6	0 (0%)	1 (16%)
Time (days)	19	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	1.1	5.2	0 (0%)	0.8 (24%)
% of procedures possible by Internet	67	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Bulgaria	EU27 Mean
Time (years)	3.3	1.9
Cost (% of estate)	9.0	10.5
Recovery rate (%)	31.4	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	NA	NA
Number of firms	NA	NA
Ratio	NA	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Bulgaria	EU27 Mean
Number	10.8	5.1
Time (days)	49	39
Cost (€)	376	309

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary³⁴ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ³⁵
TOTAL annual approved budget allocated to the functioning of all courts	112,211,184	15.2	0.83%
Annual public budget allocated to (gross) salaries	76,452,684	10.4	0.57%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	322,123	0.04	0.00%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	10,740,991	1.5	0.08%
Annual public budget allocated to court buildings (maintenance, operating costs)	202,289	0.03	0.00%
Annual public budget allocated to investments in new (court) buildings	NA	NA	NA
Annual public budget allocated to training and education	25,799	0.004	0.00%
Other	18,699,888	2.5	0.14%

The overall budget of the justice system is 224,069,853 euros. This includes the budget for the court system, public prosecution services and the Council of the judiciary.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	2,198	2,198	11,825	NA	647	379
Number / population *100,000	29.8	29.8	160.6	NA	8.8	5.1
Number / State + Local annual expenditure in Billions	162.9	162.9	876.4	NA	48.0	28.1

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

There are 2,198 professional judges sitting in ordinary and administrative courts, including 784 at first instance, 1239 at second instance and 175 at highest instance. Furthermore, there are no professional judges sitting in courts on an occasional basis. In addition to professional judges, in Bulgaria there are no non-professional judges performing various judicial functions.

³⁴ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

³⁵ General government expenditure is based on 2010 Eurostat data.

Non-judge staff

Of the 5,866 non-judge staff units of personnel who are working in ordinary and administrative courts, for 1,679 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 1,884 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Finally, there are 2,183 technical staff and other 120 court assistants. In Bulgaria, there is no Rechtspfleger or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff working in courts is 1 to 2.7.

Other actors of the non-criminal justice system

Lawyers: in civil and administrative cases, lawyers have no monopoly on legal representation.

Notaries: Under the Bulgarian law, 647 notaries are active, which is explicitly entrusted through legal delegation from the state. According to Art. 2, para. 1 of the Notaries and Notarial Practice Act "notary is a person who the state assigns stipulated by the law notarial acts." Notaries have duties in the framework of civil procedure, in the field of legal advice, to certify the authenticity of legal deeds and certificates. If assigned by the parties, the notary may, in connection with the notary proceedings to prepare and to review draft documents, give verbal and written advice to mediate to clarify the will of the parties, make inquiries, to provide documents and/or other and to be executor or administrator of the estate.

Bailiffs acting as **enforcement agents:** enforcement agents are bailiffs practicing as private professionals under the control of public authorities or bailiff working in a public institution. In regional courts, there are civil enforcement agents. Public enforcement agents (PEA) perform enforcement of private claim. The state may assign the state enforcement agents to collect the public debts in legal cases specified by law. In district courts, where there are no public enforcement agents, the functions of state enforcement agents are performed by a district judge, the chairman of the court and the Minister of Justice should be notified. The private enforcement agents are regulated by the Private Enforcement Agents Act. According to Art. 2, the bailiff is a person to whom the state entrusts the enforcement of private claims. The state may assign the PEA with the collection of public receivables. The authorities which are competent to establish claims may delegate the collection to one or more private enforcement agents. The area of action of PEA coincides with the respective regional court.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available.

Incoming first instance non - criminal cases in 2010/Professional judges sitting on courts full time	Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non-criminal cases in 2010/ (judges and administrative personnel)
180	180	49

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first

instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts, at the same time, for Electronic Communication and information exchange between the Courts and their environment, the situation is not so positive.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Bulgaria 2010 data shows that computer facilities for supporting judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility to access to court electronic registers, is available in 100% of courts; at the same time, the tools to follow up on a case online, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are not available in the courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):³⁶

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Bulgaria	4.0	4.0	1.6	3.2
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

³⁶ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Bulgaria	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	96	NA	NA	251
	DT 2008	148	NA	NA	123
	DT 2010	67	NA	NA	113
Second instance	DT 2006	NA	NA	NA	NA
	DT 2008	159	NA	NA	NA
	DT 2010	136	NA	NA	126
Highest instance	DT 2006	331	NA	NA	89
	DT 2008	109	NA	NA	NA
	DT 2010	137	NA	NA	126

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

The number of hearings is not available for Bulgaria.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Bulgaria	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	99.02%	NA	NA	97.84%
	Second	98.88%	NA	NA	98.19%
	Highest	100.26%	NA	NA	98.19%

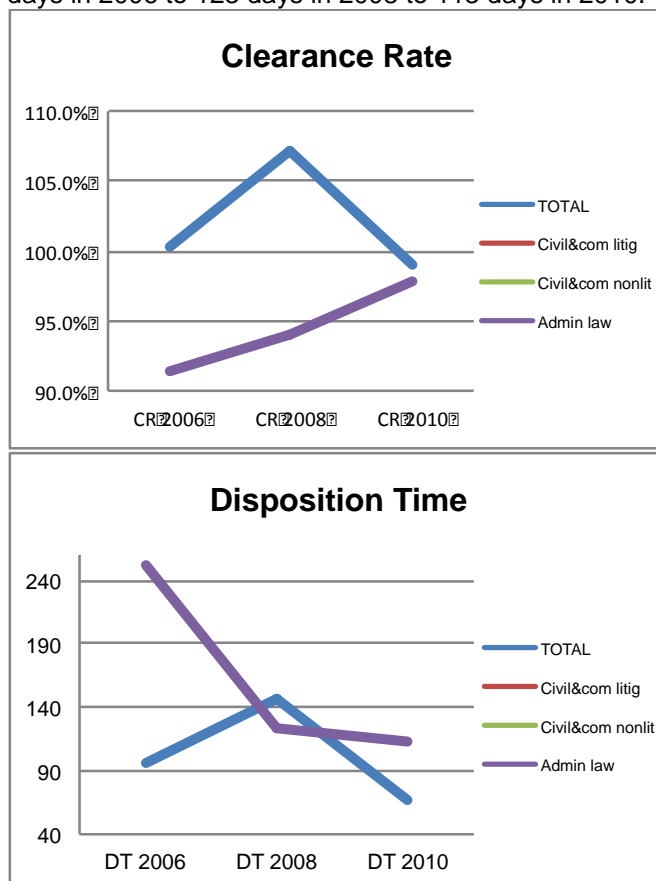
Bulgaria	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	71804	NA	NA	8261
	Second	14215	NA	NA	5723
	Highest	11576	NA	NA	5723

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

Overall, in this period, the **total** number of incoming cases increases by an average of 10.3% per year, from 266,907 in 2006, down to 140,700 in 2008, to increase to 394,840 in 2010, while the number of resolved cases increases by an average of 9.9% per year, from 267,899 in 2006, down to 150,786 in

2008, and then again up to 390,965 in 2010. Data on first instance courts Disposition Time for the total number of other than criminal cases, in the period 2006-2010, shows a positive if not consistent trend, decreasing by an average of 8.6% per year, going from 96 days in 2006 to 148 days in 2008 to 67 days in 2010.

The number of incoming **administrative** cases increases by an average of 2.9% per year, from 24,281 in 2006 to 23,349 in 2008 to 27,265 in 2010, while the number of resolved cases increases by an average of 4.7% per year, from 22,195 in 2006 down to 21,964 in 2008, and up again to 26,675 in 2010. Disposition Time shows a positive trend, decreasing by an average of 18.1% per year, from 251 days in 2006 to 123 days in 2008 to 113 days in 2010.



Compared to first instance Disposition Time value for the same year,³⁷ Disposition Time of highest instance courts for other than criminal cases in 2006 and for administrative cases in 2010 are quite high (331 days and 126 days respectively), and while the other second and highest instance Disposition Time value are in line with those of the same year.

³⁷ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\left(\frac{(\text{FirstInstance DT CaseCategory X, Year Y})}{(\text{MeanDT EU27FirstInstanceCaseCategory X, 2010})} \right) - \left(\frac{(\text{SecondInstance DT CaseCategory X, Year Y})}{(\text{MeanDT EU27SecondInstanceCaseCategory X, 2010})} \right)$$

For highest instances:

$$\left(\frac{(\text{FirstInstance DT CaseCategory X, Year Y})}{(\text{MeanDT EU27FirstInstanceCaseCategory X, 2010})} \right) - \left(\frac{(\text{HighestInstance DT CaseCategory X, Year Y})}{(\text{MeanDT EU27HighestInstanceCaseCategory X, 2010})} \right)$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

Q11: Number, average duration and costs of non-criminal³⁸ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	NA	NA	NA	NA	NA	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	NA	NA	NA	NA	NA	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

There is no specific ICT application to support simplified procedures.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

Source UIHJ: The average duration of a procedure of recognition of a judgment under the Brussels I Regulation (Regulation (EC) 44/2001 of 22 December 2000) is 6 months, while its average cost is not available. On the other hand, the average duration of an exequatur procedure of a judgment in civil and commercial matter coming from a non-EU country is 6 months, and its average cost is not available.

Other answers: unknown

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

³⁸ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

First instance and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	NA	NA	NA	NA	NA	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

In Bulgaria, a private mediator worked on civil and commercial cases, administrative cases, employment cases and family law cases (ex. divorce). A possibility to receive legal aid for mediation procedure does exist. The number of accredited or registered mediators who practice judicial mediation is not available. Mediators in Bulgaria are not an organisational branch, although mediation is recognised as a profession. There are 41 volunteer mediators at the District Court of Sofia. No courts have accredited mediators.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

Enforcement proceedings in domestic law: the average length of enforcement proceedings in civil and commercial matter is 2 years. There is no maximum time to enforce a court decision in this matter. The enforcement agent in charge of enforcing a court decision can grant the debtor installments for the payment of the debt. In this case, the average time granted to the debtor to execute the court decision is 1 year (UIHJ data).

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

When a decision in civil and commercial matter must be brought into effect, failing voluntary compliance by the debtor, the average percentage of cases paid in full following enforcement is 25 % and the average percentage of decisions partially enforced is non-available. The average percentage of decisions whose enforcement has not been possible due to the failure of the debtor is between 30 and 50 % (UIHJ data).

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

In 2010 in accordance with Regulation (EC) No 1393/2007 of 13 November 2007, an unknown number of judicial and extrajudicial documents from another member State of the European Union

were served in Bulgaria, but the average length is 1 week. In the same way, an unknown number of documents were transmitted in 2010 by Bulgaria to be served in another EU member State in accordance with Regulation (EC) No 1393/2007. The average length is unknown too (UIHJ data).

According to the European Judicial Atlas in Civil Matters, Bulgarian legislation does not stipulate a fee for the service of documents under Regulation 1393/2007 in the normal way. A fee fixed in accordance with the tariff for fees and costs under the Private Bailiffs Act is charged for the service of documents by a particular method³⁹.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	1 269	2 029	2 375	923	NA	NA	77
2008	903	979	1 072	808	NA	NA	58,1
2010	1076	2491	2489	1078	158	99.9%	77,14

For 2010, the average length of proceedings in employment dismissal cases is not available. The % of pending cases for more than 3 years is not available.

Data on number of employment disciplinary dismissal, economic dismissal and for other motivations is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Bulgaria, the first instance courts are: first instance courts of general jurisdiction (113 regional courts, 28 district courts) and first instance specialised courts (28 administrative courts, 5 military courts and 1 specialised penal court). For the second instance: 28 district courts, 5 courts of appeal, 1 military court of appeal and 1 specialised penal court of appeal. There is 1 supreme court of cassation and 1 supreme administrative court.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is not evaluated regularly in terms of performance and outputs. Concerning court activities, the main performance indicators at the level of the court system: incoming cases, length of proceedings (timeframes), closed cases, pending cases and backlogs, productivity of judges and court staff, percentage of cases that are processed by a single sitting judge and costs of the judicial procedures. No performance targets are set at the level of the court and there are no specific quality standards for the judicial system as a whole. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. There is no system to monitor backlogs and cases that are not processed within a reasonable time, and no system to monitor waiting time during court procedures.

³⁹ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_bg_en.jsp

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Bulgaria	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

Concerning the reform plans: amendments of the Judiciary System Act have been discussed regarding the nomination and election of the members of the Supreme Judicial Court (SJC) by competition and the career development of the magistrates; the establishment of an administrative unit within the Inspectorate of the SJC is pending. The unit shall deal with tardiness complaints within the meaning of Art. 6 of the European Convention on Human Rights.

Concerning the courts services: unification of the Internet sites of the courts is pending; criteria of reporting on the workload of magistrates are being elaborated.

In addition, there are reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities.

Additional information provided by the European Commission:

In the run-up to the accession of Bulgaria to the EU in 2007, it was agreed that further work was needed in key areas to address shortcomings in judicial reform, the fight against corruption, and tackling organised crime. This led to the establishment of a framework to support Bulgaria and to monitor progress in these areas, the Cooperation and Verification Mechanism (CVM). Six benchmarks were established, covering the independence and accountability of the judicial system, its transparency and efficiency; the pursuit of high-level corruption, as well as corruption throughout the public sector; and the fight against organised crime. The Decision set up regular reporting from the Commission, and provided that the mechanism will continue until the objectives of the CVM are met and all six benchmarks are satisfactorily fulfilled. Regarding the judicial system, the on-going reforms concern independence, accountability, integrity and efficiency of the judicial process. More in detail, the last Report of the Commission in the framework of the CVM, (adopted on the 18.07.2012.) set the following recommendations as regards the judiciary:

- Renew the Supreme Judicial Council with a mandate to undertake fundamental reform.
- Establish and implement a medium-term human resource strategy for the judiciary, based on an analysis of needs and workload, with the changes in the structure of courts, recruitment and training.
- Make transparency, objectivity and integrity the top priority in appraisals, promotions, appointments and disciplinary decisions for the judiciary.
- Establish a strategy for reducing the backlogs in publishing motivations for cases and analyse how to remedy this problem.
- Focus the work of the Inspectorate on integrity and judicial efficiency. Define a single, effective system of random allocation of cases for use nationwide.
- Close loopholes in the effective implementation of court decisions, such as absconding to evade prison sentences or failure to apply financial sanctions defined in court.
- Adopt a strategy to improve legal consistency, including a proactive strategy by the Supreme Court of Cassation to identify and rule on areas of disagreement.

- A new General Prosecutor should have a mandate to reform the prosecution in structure, procedures and organisation on the basis of an independent functional audit and in cooperation with external experts.
- Set a target for the completion of work on the new Penal Code, and for its implementation.
- Ensure the open involvement of all significant NGOs and professional organisations in defining and monitoring strategies for reform.
- Ensure that the election of the General Prosecutor gives an example of a transparent, competitive process based on criteria of integrity and effectiveness.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Bulgaria is 112,211,184 € (neither public prosecution nor legal aid budget is included). This corresponds to 15.2 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.83% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Bulgaria has 29.8 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 29.8 judges (this number include full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and Rechtspfleger for countries which have such category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 109.5 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 160.6, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 5.4, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases, but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 5.4, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance is not available.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and the Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is

also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Bulgaria is 67.0 days, which corresponds to 0.27 times the EU27 average Disposition Time and 0.45 times the EU27 median Disposition Time. The situation is an improvement compared to the 147.7 days of 2008 and, in a more limited manner, to the 95.9 days of 2006. The Clearance Rate in 2010 is 99.0%, which means that the pending cases are slightly increasing and the situation is stable.

Data on 2010 Disposition Time for litigious civil and commercial cases is not available.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean⁴⁰.

		Bulgaria			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	8	15	3.9	5	31	4.9
Starting business		4	19*	1.1	6	14	5.2
Licences		10.8	49*	376	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate⁴¹.

		Bulgaria			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		3.3	9.0	31.4	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean;

⁴⁰ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

⁴¹ See the methodological note for more details on this assessment.

and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Bulgaria	15.2	0.83%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Bulgaria is below the EU27 mean in terms of Euro per inhabitant, while it is above the EU27 mean in terms of % of public expenditure.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Bulgaria	29.8	29.8	109.5	160.6	5.4
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges are above the EU 27 mean while in overall, considering also administrative personnel and lawyers, they are in line with the EU27 mean.

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Bulgaria	5.4	not available
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

While the number of other than criminal cases per 100 inhabitants is in line with the EU27 mean, the number of civil and commercial litigious cases is not available.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light

green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Bulgaria	95.9	147.7	67.0	99.02%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases is good, below half that of the EU27 mean in 2010 and the Clearance Rate is around 100% which means that the situation is stable and the system is capable of dealing with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Bulgaria	NA	NA	NA	NA
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Shortcomings: Disposition Time for civil and commercial litigious cases is not available.

Other shortcomings: There is no quantitative data on ADR and mediation; on enforcement and other relevant procedures; performance of the courts is not evaluated regularly; there are no specific quality standards for the judicial system as a whole; there is no system to monitor backlogs and cases that are not processed within a reasonable time and no system to monitor waiting time during court procedures, ICT infrastructure can be improved, especially as regards communication between courts and parties.

7. RECOMMENDATIONS

Business-friendliness:

The procedure for registering property should be simplified by removing 2 or 3 steps. Moreover, the time of insolvency and bankruptcy procedures should be sharply reduced with a duration of 2 years as an objective. The Recovery rate from such procedures should be also increased with a rate of 80% as an objective. Finally, the licences system should be simplified.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the

Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. More specific data on the judicial system efficiency, which can be confronted with that of other EU countries, should be collected and made available.

Additional recommendations:

Monitoring and evaluating systems should be developed.

Data on ADR and mediation should be collected.

ICT infrastructure should be extended, especially with the development of tools for the communication between courts and parties. It could be useful to start from the development of ICT systems to support simplified procedures such as payment orders and small claims in order to gain the experience needed to manage more complex e-services. In other EU national contexts (i.e. UK England and Wales, Slovenia etc.), the creation of a single national electronic jurisdiction for the management of such claims has resulted in reduced technological and organisational complexity and a more efficient use of resources.

ANNEX: COUNTRY-STATISTICS

First instance

Bulgaria	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	71,363	NA	NA	NA	NA	1,410	13,193	NA
	2008	71,112	NA	NA	NA	NA	NA	6,044	NA
	2010	67929	NA	NA	NA	NA	NA	7671	60258
Incoming (number of cases)	2006	266907	NA	NA	NA	NA	57,289	24,281	NA
	2008	140700	NA	NA	NA	NA	NA	23,349	NA
	2010	394840	NA	NA	NA	NA	NA	27265	367575
Resolved (number of cases)	2006	267,899	NA	NA	NA	NA	56,777	22,195	NA
	2008	150,786	NA	NA	NA	NA	NA	21,964	364290
	2010	390965	NA	NA	NA	NA	NA	26675	364290
Pending 31 Dec. (number of cases)	2006	70,371	NA	NA	NA	NA	1,922	15,279	NA
	2008	61,026	NA	NA	NA	NA	NA	7,429	NA
	2010	71804	NA	NA	NA	NA	NA	8261	63543

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	100%	NA	NA	NA	NA	99%	91%	NA
CR	2008	107%	NA	NA	NA	NA	NA	94%	NA
CR	2010	99%	NA	NA	NA	NA	NA	98%	99%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	96	NA	NA	NA	NA	12	251	NA
DT (Days)	2008	148	NA	NA	NA	NA	NA	123	NA
DT (Days)	2010	67	NA	NA	NA	NA	NA	113	64

Second instance

Bulgaria	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	12,379	NA	NA	NA	NA	NA	NA	NA
	2010	13785	NA	NA	NA	NA	NA	5418	8367
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	23397	NA	NA	NA	NA	NA	NA	NA
	2010	38510	NA	NA	NA	NA	NA	16859	21651
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	24,922	NA	NA	NA	NA	NA	NA	NA
	2010	38080	NA	NA	NA	NA	NA	16554	21526
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	10,854	NA	NA	NA	NA	NA	NA	NA
	2010	14215	NA	NA	NA	NA	NA	5723	8492

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	107%	NA	NA	NA	NA	NA	NA	NA
CR	2010	99%	NA	NA	NA	NA	NA	98%	99%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	159	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	136	NA	NA	NA	NA	NA	126	144

Highest instance

Bulgaria	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	13,646	NA	NA	NA	NA	NA	3,917	NA
	2008	3,184	NA	NA	NA	NA	NA	NA	NA
	2010	11657	NA	NA	NA	NA	NA	5418	6239
Incoming (number of cases)	2006	13928	NA	NA	NA	NA	NA	12,914	NA
	2008	16402	NA	NA	NA	NA	NA	NA	NA
	2010	30768	NA	NA	NA	NA	NA	16859	13909
Resolved (number of cases)	2006	14,464	NA	NA	NA	NA	NA	13,604	NA
	2008	15,095	NA	NA	NA	NA	NA	NA	NA
	2010	30849	NA	NA	NA	NA	NA	16554	14295
Pending 31 Dec. (number of cases)	2006	13,110	NA	NA	NA	NA	NA	3,302	NA
	2008	4,491	NA	NA	NA	NA	NA	NA	NA
	2010	11576	NA	NA	NA	NA	NA	5723	5853

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	104%	NA	NA	NA	NA	NA	105%	NA
CR	2008	92%	NA	NA	NA	NA	NA	NA	NA
CR	2010	100%	NA	NA	NA	NA	NA	98%	103%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	331	NA	NA	NA	NA	NA	89	NA
DT (Days)	2008	109	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	137	NA	NA	NA	NA	NA	126	149

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

CYPRUS

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

4. CYPRUS

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Cyprus	EU27 Mean	Cyprus	EU27 Mean
Number of procedures	5	5	NA (NA)	1 (27%)
Time (days)	42	31	NA (NA)	9 (26%)
Cost (% of property value)	8.7	4.9	NA (NA)	1.1 (21%)
% of procedures possible by Internet	NA	43	NA	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Cyprus	EU27 Mean	Cyprus	EU27 Mean
Number of procedures	6	6	NA (NA)	1 (16%)
Time (days)	9	14	NA (NA)	2 (17%)
Cost (% of per capita GNI)	12.3	5.2	NA (NA)	0.8 (24%)
% of procedures possible by Internet	NA	83	NA	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Cyprus	EU27 Mean
Time (years)	1.5	1.9
Cost (% of estate)	15.0	10.5
Recovery rate (%)	70.8	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	NA	NA
Number of firms	NA	NA
Ratio	NA	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Cyprus	EU27 Mean
Number	7.3	5.1
Time (days)	61	39
Cost (€)	313	309

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary⁴² and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ⁴³
TOTAL annual approved budget allocated to the functioning of all courts	33,546,827	41.7	0.42%
Annual public budget allocated to (gross) salaries	22,335,367	27.8	0.28%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	116,180	0.1	0.00%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	87,100	0.1	0.00%
Annual public budget allocated to court buildings (maintenance, operating costs)	2,653,611	3.3	0.03%
Annual public budget allocated to investments in new (court) buildings	6,310,040	7.8	0.08%
Annual public budget allocated to training and education	98,929	0.1	0.00%
Other	1,945,600	2.4	0.02%

The overall budget of the justice system is 79,536,746 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, the Council of the judiciary, judicial protection of juveniles, functioning of the Ministry of Justice and refugees and asylum seekers services.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	104	104	2,400	26	NAP	169
Number / population *100,000	12.9	12.9	298.3	3.2	NAP	21.0
Number / State + Local annual expenditure in Billions	12.9	12.9	298.7	3.2	NAP	21.0

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

There are 104 professional judges sitting in ordinary and administrative courts, including 91 at first instance, 13 at second and highest. Furthermore, there are no professional judges sitting in courts on an occasional basis or non-professional judges performing various judicial functions.

Non-judge staff

⁴² Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

⁴³ General government expenditure is based on 2010 Eurostat data.

Of the 463 non-judge staff units of personnel who are working in ordinary and administrative courts, for 141 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for smooth proceedings in the courts.

Another 141 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Finally, there are 133 technical staff and another 48 court bailiffs. In Cyprus, there is no Rechtspfleger or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff working in courts is 1 to 4.5.

Other actors of the non-criminal justice system

Lawyers: there are 26 EU lawyers, registered under their home country professional title (Art. 2 of Directive 98/5/EC). In civil and administrative cases, lawyers have a monopoly on legal representation. In fact, any civilian can appear before any courts in Cyprus, Supreme or District Courts. They can defend themselves and prepare the pleadings but the practice is that almost everybody appoints a lawyer in order to get the best legal presentation. But it is clarified that only registered practicing lawyers can represent other persons before any court in Cyprus. This number does include legal advisors.

There are no notaries in CY. The duties that usually belong to **public notaries** in other states are performed by **lawyers in Cyprus** who are members of the Cyprus Bar Association. There are also **certifying officers in Cyprus** who can only deal with only one of the notary's activities, that of authenticating documents. **Certifying officers in Cyprus** are appointed by the Ministry of the Interior and they do not need to have a qualification as lawyers in Cyprus. The regulating body of this profession is also the Ministry of the Interior.

Bailiffs acting as **enforcement agents**: enforcement agents are bailiffs practicing as private professionals under the authority of public authorities or bailiffs working in a public institution.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available.

Incoming first instance non - criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non-criminal cases in 2010/ (judges and administrative personnel)
294	294	54

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are no electronic tools for case-management in the courts, while there are electronic tools for tracking of cases in less than 50% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Cyprus 2010 data shows that computer facilities for supporting judges' and court registrars' activities such as Word processing, electronic data-base of case-law, e-mail, Internet connection, are available in 100% of courts, while electronic files are not available in the courts. As to the electronic communication between the courts and their institutional environment, the possibility to follow up on a case online, access to court electronic registers, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are not available in the courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):⁴⁴

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Cyprus	4.0	2.0	1.0	2.3
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

⁴⁴ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Cyprus	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	NA	672	NA	2010
	DT 2008	423	NA	NA	932
	DT 2010	545	513	NA	1340
Second instance	DT 2006	NA	767	NA	1829
	DT 2008	1319	NA	NA	1342
	DT 2010	1252	1194	NA	1362
Highest instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2011	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

The number of hearings is not available for Cyprus.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Cyprus	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2011	First	84.16%	83.95%	NA	74.23%
	Second	72.80%	71.90%	NA	74.55%
	Highest	NA	NA	NA	NA

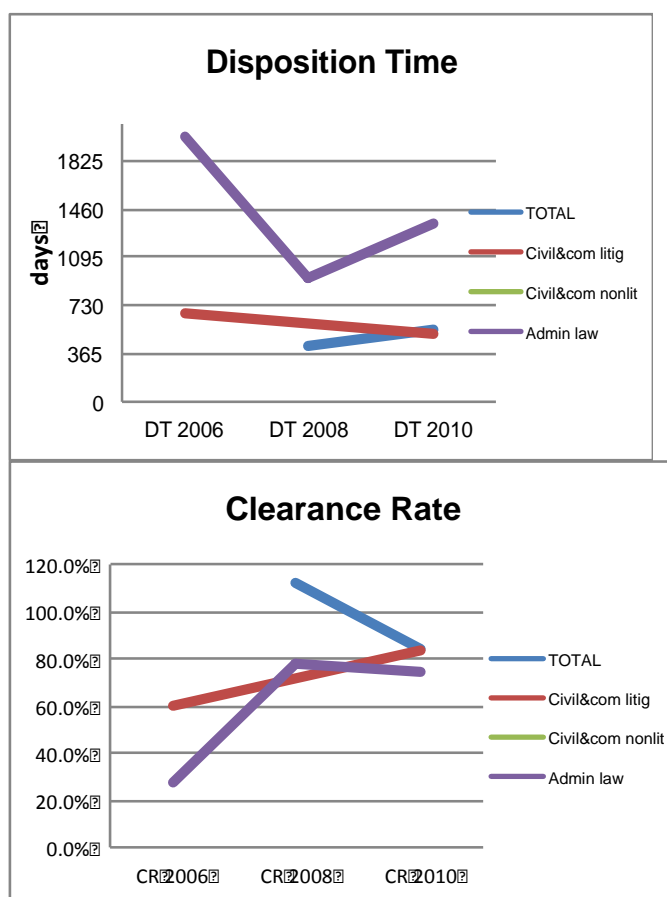
Cyprus	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	38480	31244	NA	5288
	Second	1616	1004	NA	612
	Highest	NA	NA	NA	NA

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

The **total** numbers of incoming other than criminal and resolved cases are not available for 2006. Between 2008 and 2010, the cases increase by an average of 16% per year, from 22,639 to 30,612, while the number of resolved cases increases by an average of 0.3% per year, from 25,407 to 25,763. In the same period, data on First instance courts Disposition Time for the total number of other than criminal cases shows a negative trend, increasing by an average of 13.5% per year, from 423 days in 2008 to 545 days in 2010.

In the period 2006-2010, the number of incoming **litigious civil and commercial** cases decreases by an average of 0.6% per year, from 27,114 in 2006 to 26,455 in 2010, while the number of resolved cases increases by an average of 8.0% per year, from 16,296 in 2006 to 22,210 in 2010.

The number of incoming administrative cases decreases by an average of 5.9% per year, from 2,470 in 2006 to 1,965 in 2008 to 1,940 in 2010, while the number of resolved cases increase by an average of 20.9% per year, from 674 in 2006 to 1,532 in 2008 to 1,440 in 2010. Disposition Time in litigious civil and commercial cases shows a positive trend, decreasing by an average of 6.5% per year, from 672 days in 2006 to 513 days in 2010. In the same period, first instance administrative court cases show a positive trend, decreasing by an average of 9.6% per year, from 2,010 days in 2006 to 932 days in 2008 to 1,340 days in 2010.



Compared to first instance Disposition Time value for the same year,⁴⁵ Disposition Time of second instance courts for other than criminal cases in 2008 and for civil and commercial litigious cases in 2010 are quite high (1319 days and 1194 days respectively), while the other second instance Disposition Time values are in line with those of the same year. So for example, while Disposition Time of second instance courts for other than criminal cases in 2010 is high (1252 days), this is still

⁴⁵ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)}{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)} - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)} \right)$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)}{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)} - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)} \right)$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

consistent with the high value of first instance DT (545 days in 2010 compared to the 423 days in 2008).

Q11: Number, average duration and costs of non-criminal⁴⁶ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	NA	NA	NA	NA	NA	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	26999	26455	22210	31244	513	84.0%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Cyprus (UIHJ data).

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA

⁴⁶ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	26999	26455	22210	31244	513	84.0%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

On 16 November 2012 CY adopted Law 159(1)2012 on the implementation of Directive 2008/52, the

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

"Mediation Directive".

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Cyprus (UIHJ data).

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Cyprus (UIHJ data).

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for Cyprus (UIHJ data).

According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is subject to a fixed fee of €5 for every document⁴⁷.

⁴⁷ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_cy_en.jsp

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	1 145	625	471	1 064	NA	75.4%	NA
2008	1 086	435	589	932	578	135.4%	NA
2010	1067	657	649	1075	605	98.8%	NA

In 2010, the average length of proceedings in employment dismissal cases is not available. The % of pending cases for more than 3 years is not available.

The number of employment dismissal procedure divided by dismissal motivation is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Cyprus, there are 6 courts of first instance with general jurisdiction (district court of Nicosia, district court of Limassol, district court of Larnaca, district court of Paphos, district court of Famagusta and district court of Kyrenia) and 11 first instance specialised courts including 1 labour court, 3 family courts, 2 rent and tenancies courts, 1 military court and 4 other specialised first instance courts. The Supreme Court of Cyprus is the second and highest instance court.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is not evaluated regularly in terms of performance and outputs. Concerning the courts activities, the main performance indicators at the level of the court system are: length of proceedings (timeframes), pending cases and backlogs, productivity of judges and court staff and judicial quality and organisational quality of the courts. No performance targets are set at the level of the court and there are no specific quality standards for the judicial system as a whole. There are no quantitative performance targets (for instance a number of cases to be entertained per month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time and monitor waiting time during court procedures is in place.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Cyprus	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Cyprus is 33,546,827 € (neither public prosecution nor legal aid budget is included). This corresponds to 41.7 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.42% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Cyprus has 12.9 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 12.9 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and *Rechtspfleger* for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.9. Overall, there are 70.5 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 298.3, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 23.1, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 3.8, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 3.3, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time of the total number of other than criminal cases in Cyprus is 545.2 days, which corresponds to 2.19 times the EU27 average Disposition Time and 3.70 times the EU27 median Disposition Time. The situation is worsening compared to the 422.9 days of 2008. The Clearance Rate in 2010 is 84.2%, which means that the pending cases are increasing and the number of resolved cases should be increased.

As Disposition Time of the civil and commercial litigious cases is concerned, in 2010 it is 513.5 days, which corresponds to 1.81 times the EU27 average Disposition Time and 2.38 times the EU27 median

Disposition Time. At the same time, the situation in 2010 is an improvement compared to the 672.1 days of 2006. The Clearance Rate in 2010 is 84.0%, which means that the pending cases are increasing and the number of resolved cases should be increased.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean⁴⁸.

		Cyprus			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	6	42	8.7	5	31	4.9
Starting business		6	9*	12.3	6	14	5.2
Licences		7.3	61*	313	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate⁴⁹.

		Cyprus			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		1.5	15.0	70.8	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

⁴⁸ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

⁴⁹ See the methodological note for more details on this assessment.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Cyprus	41.7	0.42%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Cyprus is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Cyprus	12.9	12.9	70.5	298.3	23.1
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges and administrative personnel are in line with the EU27 mean while the number of layers per 100,000 inhabitants is above the EU 27 average.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Cyprus	3.8	3.3
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

The caseload of the system in terms of number of other than criminal cases per 100 inhabitants and of the number of civil and commercial litigious cases is in line with the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
Cyprus	NA	422.9	545.2	84.16%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases is bad, consistently above the EU27 mean. The situation has worsened compared to the already negative one which is showed by 2008 data. Furthermore, Clearance Rate is below 90% which means that the situation is deteriorating and the system is not capable of dealing with incoming cases.

	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
First instance courts				
Cyprus	672.1	NA	513.5	83.95%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases shows a negative situation, with a number of days required which is consistently above the EU27 mean. The situation has improved if compared to the one shown by 2006 data, but Clearance Rate is below 90% which means that the situation is deteriorating and the system is not capable of dealing with incoming cases.

The system efficiency as the main categories are concerned is negative.

Other shortcomings: The situation for administrative cases is very negative, no data is collected on relevant procedures such as non-litigious civil and commercial cases and enforcement; the system does not provide for judicial mediation procedure; performance of the courts is not evaluated regularly; there are no specific quality standards for the judicial system as a whole. ICT infrastructure for the communication between courts and parties is not available.

7. RECOMMENDATIONS

Business-friendliness:

The time for registering property should be decreased to reach an objective of 20 days. The cost necessary to register property should also be sharply reduced with a cost of 5% of the GNI as an objective. Moreover, the cost for starting a business should be diminished of 7 points to reach 5%. Furthermore, the cost of insolvency and bankruptcy procedures should be decreased by about 5 points to reach 10%. Finally, a simplification of the licences system should be envisaged and the time required to obtain all the licences necessary to operate should be sharply reduced.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system. The number of lawyers is above the EU27 mean and the possibility to reduce it should be considered.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Cyprus, as the main indicators are concerned, the efficiency of the system is negative and immediate actions should be taken to increase the productivity.

Additional recommendations:

To develop the monitoring and evaluation systems. Data collection on specific topics such as insolvency proceedings, employment dismissal cases, arbitration and mediation should be introduced. ADR and mediation procedures should be used and made known..

ICT infrastructure should be extended, especially with the development of tools for the communication between courts and parties. It could be useful to start from the development of ICT systems to support simplified procedures such as the payment orders and small claims in order to gain the experience needed to manage more complex e-services. In other EU national contexts (i.e. UK England and Wales, Slovenia etc.), the creation of a single national electronic jurisdiction for the management of such claims has resulted in a reduced technological and organisational complexity and a more efficient use of resources.

ANNEX: COUNTRY-STATISTICS

First instance

Cyprus	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	33,259	NA	NA	NA	NA	2,757	NA
	2008	32,201	NA	NA	NA	NA	NA	3,479	NA
	2010	33631	26999	NA	NA	NA	NA	4788	1844
Incoming (number of cases)	2006	NA	27,114	NA	NA	NA	NA	2,470	NA
	2008	22639	NA	NA	NA	NA	NA	1,965	NA
	2010	30612	26455	NA	NA	NA	NA	1940	2217
Resolved (number of cases)	2006	NA	16,296	NA	NA	NA	NA	674	NA
	2008	25,407	NA	NA	NA	NA	NA	1,532	2113
	2010	25763	22210	NA	NA	NA	NA	1440	2113
Pending 31 Dec. (number of cases)	2006	NA	30,008	NA	NA	NA	NA	3,711	NA
	2008	29,436	NA	NA	NA	NA	NA	3,912	NA
	2010	38480	31244	NA	NA	NA	NA	5288	1948

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	60%	NA	NA	NA	NA	27%	NA
CR	2008	112%	NA	NA	NA	NA	NA	78%	NA
CR	2010	84%	84%	NA	NA	NA	NA	74%	95%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	672	NA	NA	NA	NA	2010	NA
DT (Days)	2008	423	NA	NA	NA	NA	NA	932	NA
DT (Days)	2010	545	513	NA	NA	NA	NA	1340	336

Second instance

Cyprus	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	629	NA	NA	NA	NA	464	NA
	2008	447	NA	NA	NA	NA	NA	425	NA
	2010	1440	884	NA	NA	NA	NA	556	NA
Incoming (number of cases)	2006	NA	433	NA	NA	NA	NA	152	NA
	2008	222	NA	NA	NA	NA	NA	197	NA
	2010	647	427	NA	NA	NA	NA	220	NA
Resolved (number of cases)	2006	NA	342	NA	NA	NA	NA	94	NA
	2008	145	NA	NA	NA	NA	NA	133	NA
	2010	471	307	NA	NA	NA	NA	164	NA
Pending 31 Dec. (number of cases)	2006	NA	719	NA	NA	NA	NA	471	NA
	2008	524	NA	NA	NA	NA	NA	489	NA
	2010	1616	1004	NA	NA	NA	NA	612	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	79%	NA	NA	NA	NA	62%	NA
CR	2008	65%	NA	NA	NA	NA	NA	68%	NA
CR	2010	73%	72%	NA	NA	NA	NA	75%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	767	NA	NA	NA	NA	1829	NA
DT (Days)	2008	1319	NA	NA	NA	NA	NA	1342	NA
DT (Days)	2010	1252	1194	NA	NA	NA	NA	1362	NA

Highest instance

Cyprus	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	NA	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

CZECH REPUBLIC

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Report prepared for
the European Commission (Directorate General Justice)

5. CZECH REPUBLIC

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Czech Republic	EU27 Mean	Czech Republic	EU27 Mean
Number of procedures	4	5	1 (25%)	1 (27%)
Time (days)	25	31	1 (4%)	9 (26%)
Cost (% of property value)	3.0	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	50	43	100	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Czech Republic	EU27 Mean	Czech Republic	EU27 Mean
Number of procedures	9	6	3 (33%)	1 (16%)
Time (days)	18	14	9 (50%)	2 (17%)
Cost (% of per capita GNI)	9.5	5.2	3.5 (36%)	0.8 (24%)
% of procedures possible by Internet	89	83	100	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	4281	157224	157636	3869

Disposition Time: 9 days (EU27 mean: 112 days / EU27 median: 10 days)

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Czech Republic	EU27 Mean
Time (years)	3.2	1.9
Cost (% of estate)	17.0	10.5
Recovery rate (%)	56.0	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	1684	4852
Number of firms	952889	NA
Ratio	0.2	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Czech Republic	EU27 Mean
Number	1.2	5.1
Time (days)	4	39
Cost (€)	25	309

The OECD reports an index of 2 which places Czech Republic in the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary⁵⁰ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ⁵¹
TOTAL annual approved budget allocated to the functioning of all courts	346,497,809	32.9	0.53%
Annual public budget allocated to (gross) salaries	200,850,638	19.1	0.30%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	7,412,689	0.7	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	12,058,220	1.1	0.02%
Annual public budget allocated to court buildings (maintenance, operating costs)	4,608,165	0.4	0.01%
Annual public budget allocated to investments in new (court) buildings	NAP	NAP	NAP
Annual public budget allocated to training and education	101,057	0.01	0.00%
Other	121,467,040	11.5	0.18%

The overall budget of the justice system is 557,183,160 euros. This includes the budget for the court system, legal aid, public prosecution services, probation services, judicial protection of juveniles and functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	3,063	11,348 ⁵²	10,158	99	450	484
Number / population *100,000	29.1	107.9	96.6	0.9	4.3	4.6
Number / State + Local annual expenditure in Billions	46.5	172.3	154.2	1.5	6.8	7.3

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

⁵⁰ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

⁵¹ General government expenditure is based on 2010 Eurostat data.

⁵² Includes lay judges.

There are 3,063 professional judges sitting in ordinary and administrative courts, including 1,863 at first instance, 969 at second instance and 231 at highest instance. There are no professional judges sitting in courts on an occasional basis. In addition to professional judges, in Czech Republic there are 6,180 non-professional judges performing various judicial functions. Lay judges are engaged in District Courts and Regional Courts. At district court civil proceedings, a panel (one professional judge and two lay judges) may decide, for example, employment cases. Individual lay judges usually sit 20 calendar days in one calendar year.

Non-judge staff

Of the 9,498 non-judge staff units of personnel who are working in ordinary and administrative courts, for 4,564 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 1,952 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Finally, there are 833 technical staff and other 44 judicial trainees or people in charge of serving court documents (on the parties). In Czech Republic, there are 2,105 Rechtspfleger or similar bodies with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal. They are called Senior Judicial Officers. The Senior Judicial Officers act in simple matters where no court hearing and decision is needed, both in civil and criminal proceedings. They can also be responsible for the records.

The ratio of professional judges sitting in courts to non-judge staff working in courts 1 to 3.1.

Other actors of the non-criminal justice system

Lawyers: there are 99 EU lawyers, established on the basis of Lawyers Directive 98/5 (98 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC) and 1 EU lawyers who have gained admission to the host member State under Art. 10 of Directive 98/5/EC). In civil and administrative cases, they have no monopoly on legal representation. This number does not include legal advisors.

Notaries: they are private professionals under the authority of public authorities. Notaries have duties in the framework of civil procedure, in the field of legal advice, to certify the authenticity of legal deeds and certificates and in area of an insolvency administration. The system of notaries in the Czech Republic is one of strong and stable elements of the Czech legal system, which is not often changed. In last two years, no law, meaning the reform of notarial services, was implemented. There is only a distinct increasing shift to electronic processing services in line with the overall new e-government implementation.

Bailiffs acting as **enforcement agents:** they are bailiffs working at courts (339) and private executors - private individuals licensed by the State and organised under the Chamber of Executors (145).

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non-criminal cases/Professional judges sitting in courts full time	Incoming first instance non-criminal cases/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non-criminal cases/ (judges and administrative personnel)
519	140	85

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative

personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Czech Republic 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, e-mail, Internet connection are available in 100% of courts; at the same time, electronic files are available in less than 10% of courts. As to the electronic communication between courts and their institutional environment, the possibility to follow up on a case online, access to court electronic registers, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are available in 100% of courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):⁵³

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Czech Republic	4.0	2.7	3.8	3.5
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

⁵³ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Czech Republic	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	89	181	113	257
	DT 2008	168	154	112	300
	DT 2010	115	128	105	NA
Second instance	DT 2006	90	NA	NA	NA
	DT 2008	85	NA	NA	NA
	DT 2010	62	75	NA	319
Highest instance	DT 2006	231	249	NA	208
	DT 2008	257	340	NA	NA
	DT 2010	229	287	NA	107

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2011	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

The number of hearings is not available in Czech Republic.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Czech Republic	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2011	First	94.95%	103.28%	100.89%	NA
	Second	97.67%	101.05%	NA	115.94%
	Highest	106.41%	108.35%	NA	102.83%

Czech Republic	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	475585	165991	31178	NA
	Second	42704	15898	NA	7909
	Highest	6077	5126	NA	917

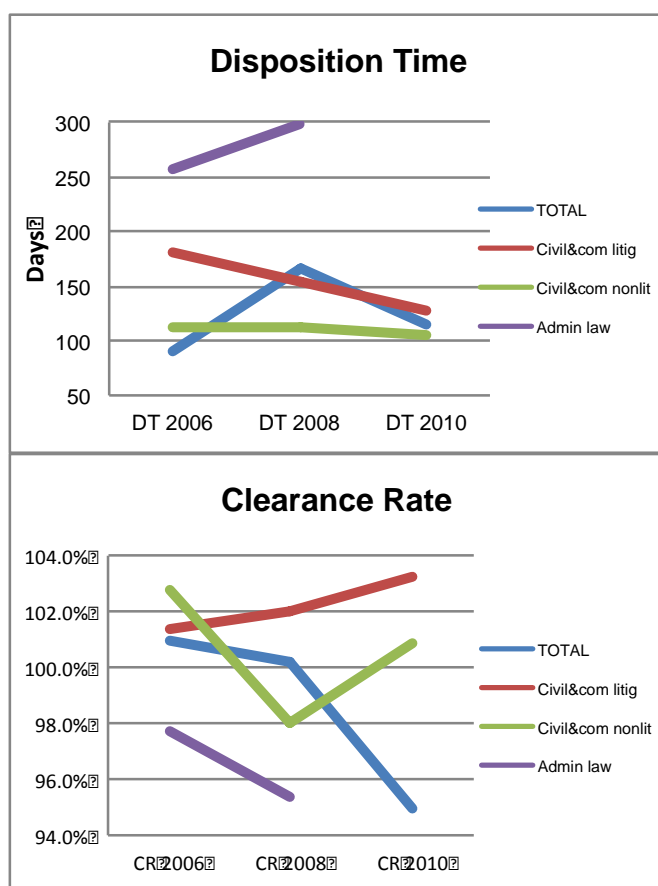
A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

In this period, the **total** number of incoming other than criminal cases increases by an average of 4.4% per year, from 1,339,889 in 2006 to 1,454,606 in 2008 to 1,588,953 in 2010, while the number of resolved cases increases by an average of 2.8% per year, from 1,353,285 in 2006 to 1,457,268 in 2008 to 1,508,639 in 2010. Data on Disposition Time for the total number of other than criminal cases, in the period 2006-2010, shows an overall negative trend, although the situation improves between 2008 and 2010. Disposition Time increases by an average of 6.5% per year, from 89 days in 2006 to 168 days in 2008 to 115 days in 2010.

At the same time, the number of incoming **litigious civil and commercial** cases increases by an average of 8.8% per year, from 327,964 in 2006 to 360,945 in 2008 to 459,508 in 2010, while the number of resolved cases increases by an average of 9.3% per year, from 332478 in 2006 to 368048 in 2008 to 474591 in 2010. Disposition Time in litigious civil and commercial cases shows a positive trend, decreasing by an average of 8.3% per year, from 181 days in 2006 to 154 days in 2008 to 128 days in 2010.

The number of incoming **non-litigious civil and commercial** cases increases by an average of 1.7% per year, from 100,232 in 2006 to 107,130 in 2008 to 107,017 in 2010, while the number of resolved cases increases by an average of 1.2% per year, from 103,012 in 2006 to 105,011 in 2008 to 107,969 in 2010.

2010 data for first instance incoming and resolved administrative cases is not available for administrative courts. In the period 2006-2008, the number of incoming **administrative** cases decreases by an average of 0.2% per year, from 11901 in 2006 to 11849 in 2008, while the number of resolved cases decreases by an average of 0.7% per year, from 11631 in 2006 to 11301 in 2008. In the same period, Disposition Time increases from 257 days to 300 days.



Compared to first instance Disposition Time value for the same year,⁵⁴ Disposition Time of second instance courts for the total number of other than criminal cases in 2008 and 2010 are quite low (85 and 62 days respectively), while highest instance Disposition Time for the total number of other than criminal cases in 2006 is quite high (231 days) compared to the first instance DT value of the same year (90 days). Other second and highest instance DT values are in line with those of the same year, even if on the high end for highest instance civil and commercial litigious cases in 2008 and 2010 (340 and 287 respectively) and highest instance administrative cases in 2006 (208 days, while in 2010 the DT is 107 days).

Q11: Number, average duration and costs of non-criminal⁵⁵ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1	Incoming cases	Resolved cases	Pending cases on 31	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
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⁵⁴ Comparison with first instance DT has been done according to the following formulas:

For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

⁵⁵ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

	Jan.'10 (number of cases)	(number of cases)	(number of cases)	Dec'10 (number of cases)	NA	NA	
Small claim	NAP	NAP	NAP	NAP	NA	NA	NAP
Small claim (not Payment Order)	NAP	NAP	NAP	NAP	NA	NA	NAP
Payment Order	NA	194629	201775	NA	NA	103.7%	CZK 600 if the case monetary amount is lower than CZK 15000, 4% of the case monetary amount is higher than CZK 15000

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	213204	566525	582560	197169	124	102.8%	NA
litigious	181074	459508	474591	165991	128	103.3%	NA
non-litigious	32130	107017	107969	31178	105	100.9%	NA

There is no special definition for small claims, but applications will be inadmissible for appeal if the amount in dispute is lower than CZK 10000 (cca 399 EUR). From 1 September 2011, the court fee is CZK 1000 if the monetary value of the case is lower than CZK 20000 and 5% if the monetary value of the case is higher than CZK 20000.

An electronic order for payment procedure has been implemented and according to the available data, the system is operational. Fees using such system are half of those of the paper based procedure, providing an incentive to use it.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

UIHJ data: a judgment in civil or commercial matter given in a EU country is recognised in the Czech Republic without any special procedure being required. Enforcement of such judgements takes the same time as domestic ones. Concerning the costs: there is no cost for the recognition, and it is the same as domestic judgement for enforcement. On the other hand, a judgment in civil or commercial matter (in matters of property) given in a non-EU country is recognised in the Czech Republic without any special procedure being required. Foreign judgment is recognised by the Czech authorities by taking it into consideration, as if it were a decision of the Czech authority. Concerning the costs: there is no cost for the recognition, and it is the same as domestic judgment for enforcement. If a decision taken in civil and commercial matter from another State of European Union has been recognised in the Czech Republic under the Brussels I Regulation, and in absence of voluntary compliance by the debtor, the average percentage of decisions fully or partially enforced is unknown. The average percentage of decisions whose implementation has not been possible due to the failure of the debtor is unknown too. The causes that prevented the enforcement of the court decisions are (from the least frequent to the most frequent cause): the debtor has left no forwarding address or no longer has a known address; it was impossible to obtain information about the debtor's assets, including their location; enforcement procedures in place were not successful for various reasons; the debtor is insolvent; the debtor is subject to bankruptcy proceedings or an equivalent procedure.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	213204	566525	582560	197169	124	102.8%	NA
litigious	181074	459508	474591	165991	128	103.3%	NA
non-litigious	32130	107017	107969	31178	105	100.9%	NA

Mediation in non-criminal matters is up to now provided only by private mediators, the data is not collected. A possibility to receive legal aid for mediation procedure does exist. There are 281 accredited or registered mediators who practice judicial mediation procedures in the Czech Republic.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure- First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	22987	308612	313105	18494	22	101.5%
2008	16184	313464	314749	14899	17	100.4%
2010	13636	293637	293623	13650	17	100.0%

Data on first instance courts' enforcement procedure, in the period 2006-2010, shows a positive trend, decreasing by an average of 5.8% per year, from 22 days in 2006 to 17 days in 2008 and in 2010.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

UIHJ data: enforcement proceedings in domestic law: the average length of enforcement proceedings in civil and commercial matter is unknown. There is no maximum time to enforce a court decision in

this matter. The enforcement agent in charge of enforcing a court decision can grant the debtor installments for the payment of the debt. In this case, the average time granted to the debtor to execute the court decision is between 6 and 12 months.

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

UIHJ data: when a decision in civil and commercial matter must be brought into effect, failing voluntary compliance by the debtor, the average percentage of cases paid in full following enforcement is between 15 and 20% and the percentage of partially paid cases is not available as the percentage of decisions whose enforcement has not been possible due to the failure of the debtor.

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

UIHJ data: unknown

According to the European Judicial Atlas in Civil Matters, no costs of service of documents under Regulation 1392/2007 are imposed⁵⁶.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	-	-	231	-	NA	NA	NA
2008	NA	NA	154	NA	NA	NA	NA
2010	NA	141469	130981	NA		92.6%	42.5

In 2010, the average length of proceedings in employment dismissal cases is not available. The % of pending cases for more than 3 years is not available.

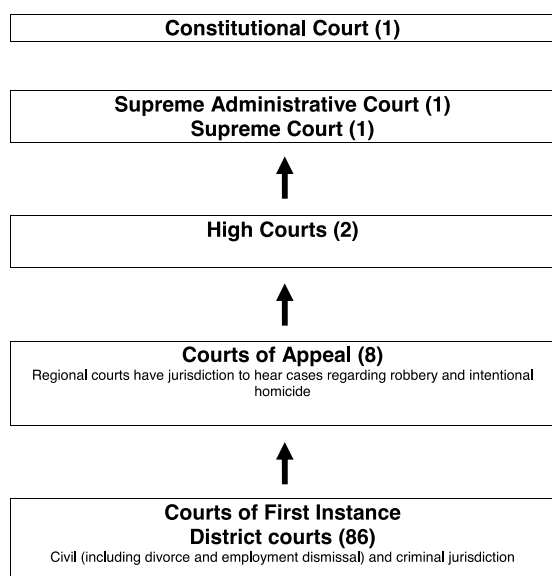
The number of employment dismissal procedure divided by dismissal motivation is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Czech Republic, there are 86 courts of first instance with general jurisdiction; 8 regional courts and 2 high courts as second instance jurisdiction; 1 Supreme Court and 1 Supreme Court of Administration as highest instance courts.

⁵⁶ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_cz_en.jsp?countrySession=16&



COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs. The Department of Supervision of the Ministry of Justice prepares semi-annual reports on court activities. The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), closed cases and pending cases and backlogs. No performance targets are set at the level of the court and there are no specific quality standards for the judicial system as a whole. There are quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time is in place, but no system to monitor waiting time during court procedures.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Czech Republic	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

Concerning court fees: the significant amendment of the Court Fees Act is effective from 1 September 2011. The minimum fee increased (from 600 CZK to 1,000 CZK) and also other fees for non-monetary performance (including for example divorce) increased (from 1,000 CZK to 2,000 CZK). On the other hand, the number of cases exempt from court fees decreased. In general, court fees increased by 30-50%.

Concerning ADR: Act of Mediation in non-criminal matters is in legislative process and should be effective in the first half of 2012.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in the Czech Republic is 346,497,809 € (neither public prosecution nor legal aid budget is included). This corresponds to 32.9 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.53% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As human resources are concerned, Czech Republic has 29.1 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 107.9 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 178.2 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and a EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 96.6, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 3.3, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 first instance incoming other than criminal cases per 100 inhabitants is 15.1, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of first instance incoming litigious civil and commercial cases per 100 inhabitants is 4.4, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and the Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Czech Republic is 115.1 days, which corresponds to 0.46 times the EU27 average Disposition Time and 0.78 times the EU27 median Disposition Time. The situation is an improvement on the 167.6 days of 2008. At the same time, the situation in 2010 is worsening compared to the 89.3 days of 2006. The Clearance Rate in 2010 is 94.9%, which means that the pending cases are increasing and the number of resolved cases should be increased.

As Disposition Time of the civil and commercial litigious cases is concerned, in 2010 it is 127.7 days, which corresponds to 0.45 times the EU27 average Disposition Time and 0.59 times the EU27 median Disposition Time. The situation is an improvement on the 154.2 days of 2008 and to the 180.8 days of

2006. The Clearance Rate in 2010 is 103.3%, which means that the pending cases are decreasing slightly and the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean⁵⁷.

		Czech Republic			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	4	25	3.0	5	31	4.9
Starting business		9	18*	9.5	6	14	5.2
Licences		1.2	4*	25	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate⁵⁸.

		Czech Republic			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		3.2	17.0	56.0	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

⁵⁷ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

⁵⁸ See the methodological note for more details on this assessment.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Czech Republic	32.9	0.53%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in the Czech Republic is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Czech Republic	29.1	107.9	178.2	96.6	3.3
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel and lawyers are in line with the EU27 mean. While the number of judge-like agents and the overall number of judges and administrative personnel are above the EU 27 mean, it should be considered that the lay judges usually sit in court 20 calendar days in one calendar year.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Czech Republic	15.1	4.4
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

The number of other than criminal cases per 100 inhabitants is in line with the EU27 mean, while the number of civil and commercial litigious cases is higher, indicating a high level of civil and commercial conflictuality, which needs to be addressed by courts.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Czech Republic	89.3	167.6	115.1	94.95%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases is good, below half that of the EU27 mean although the Clearance Rate is below 95% which means that the situation needs to be monitored. Furthermore, the 2010 situation shows a consistent improvement compared to the 2008 one, but deterioration compared to the 2006 one, as far as Disposition Time is concerned. These consistent changes are also an indication of an instable situation which should be monitored.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Czech Republic	180.8	154.2	127.7	103.28%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for civil and commercial litigious cases is good, below half that of the EU27 mean and the Clearance Rate is about 100% which means that the situation is stable and the system is capable of dealing with incoming cases. The situation shows also a progressive improvement from the previous years, which is also a positive sign.

The system efficiency as the main categories are concerned is good.

Other strengths: an ICT for the communication between courts and parties has been developed and in particular, an electronic order for payment procedure is in place and incentives are provided to the use of the system.

Other shortcomings: there is no quantitative data about ADR and mediation; no system to monitor waiting time during court procedures; there are no specific quality standards for the whole judicial system.

7. RECOMMENDATIONS

Business-friendliness:

The procedure for starting a business should be simplified by removing 2 or 3 steps. The cost of such procedure should be also reduced by 4 points to reach 5%. Moreover, the time of insolvency and bankruptcy procedures should be sharply reduced with a duration of 2 years as an objective. The cost of such procedures should also be sharply reduced with a cost of 10% as an objective.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system. The possibility of better examining the sources of the high level of litigiousness should be considered. Consistency of judicial decisions and predictability of the outcomes of cases should be assessed. The strengthening of mediation and ADR procedures should also be considered.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Czech Republic, considering the main indicators, the court system is performing well, and no specific recommendation is required.

Additional recommendations:

Data collection on specific topics such as insolvency proceedings, employment dismissal cases, arbitration and mediation should be introduced. The monitoring system should be improved.

The possibility to introduce quality standards for the whole judicial system should be explored.

ANNEX: COUNTRY-STATISTICS

First instance

Czech Republic	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	344,612	169,208	34,692	22,987	-	3,656	7,927	106,142
	2008	671,914	162,575	30,101	16,184	NAP	5,079	8,732	449,243
	2010	395271	181074	32130	13636	NAP	NA	NA	168431
Incoming (number of cases)	2006	1339889	327,964	100,232	308,612	-	129,251	11,901	461,929
	2008	1454606	360,945	107,130	313,464	NAP	152,396	11,849	508,822
	2010	1588953	459508	107017	293637	NAP	NA	NA	728791
Resolved (number of cases)	2006	1,353,285	332,478	103,012	313,105	-	128,710	11,631	464,349
	2008	1,457,268	368,048	105,011	314,749	NAP	152,786	11,301	632456
	2010	1508639	474591	107969	293623	NAP	NA	NA	632456
Pending 31 Dec. (number of cases)	2006	331,216	164,694	31,912	18,494	-	4,197	8,197	103,722
	2008	669,252	155,472	32,220	14,899	NAP	4,689	9,280	452,692
	2010	475585	165991	31178	13650	NAP	NA	NA	264766

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	101%	101%	103%	101%	NA	100%	98%	101%
CR	2008	100%	102%	98%	100%	NA	100%	95%	124%
CR	2010	95%	103%	101%	100%	NA	NA	NA	87%

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	89	181	113	22	NA	12	257	82
DT (Days)	2008	168	154	112	17	NA	11	300	261
DT (Days)	2010	115	128	105	17	NA	NA	NA	153

Second instance

Czech Republic	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	16,191	-	-	-	-	-	-	-
	2008	17,768	NA	NA	NA	NA	NA	NA	NA
	2010	36702	16696	NA	NA	NAP	4281	9155	6570
Incoming (number of cases)	2006	70963	-	-	-	-	-	-	-
	2008	72788	NA	NA	NA	NA	NA	NA	NA
	2010	257518	76101	NA	NA	NAP	157224	7815	16378
Resolved (number of cases)	2006	69,977	-	-	-	-	-	-	-
	2008	73,488	NA	NA	NA	NA	NA	NA	NA
	2010	251516	76899	NA	NA	NAP	157636	9061	7920
Pending 31 Dec. (number of cases)	2006	17,177	-	-	-	-	-	-	-
	2008	17,086	NA	NA	NA	NA	NA	NA	NA
	2010	42704	15898	NA	NA	NAP	3869	7909	15028

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	99%	NA	NA	NA	NA	NA	NA	NA
CR	2008	101%	NA	NA	NA	NA	NA	NA	NA
CR	2010	98%	101%	NA	NA	NA	100%	116%	48%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	90	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	85	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	62	75	NA	NA	NA	9	319	693

Highest instance

Czech Republic	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	7,150	3,916	-	-	-	-	3,234	-
	2008	6,786	5,209	NA	NA	NA	NA	1,577	NA
	2010	6661	5628	NA	NA	NAP	NA	1033	30
Incoming (number of cases)	2006	11700	7,507	-	-	-	-	4,193	-
	2008	10137	6,510	NA	NA	NA	NA	3,627	NA
	2010	9104	6013	NA	NA	NAP	NA	3044	47
Resolved (number of cases)	2006	10,731	6,002	-	-	-	-	4,729	-
	2008	9,938	6,066	NA	NA	NA	NA	1,332	NA
	2010	9688	6515	NA	NA	NAP	NA	3130	43
Pending 31 Dec. (number of cases)	2006	6,789	4,091	-	-	-	-	2,698	-
	2008	6,986	5,654	NA	NA	NA	NA	NA	NA
	2010	6077	5126	NA	NA	NAP	NA	917	34

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	92%	80%	NA	NA	NA	NA	113%	NA
CR	2008	98%	93%	NA	NA	NA	NA	37%	NA
CR	2010	106%	108%	NA	NA	NA	NA	103%	91%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	231	249	NA	NA	NA	NA	208	NA
DT (Days)	2008	257	340	NA	NA	NA	NA	NA	NA
DT (Days)	2010	229	287	NA	NA	NA	NA	107	289

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

DENMARK

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

6. DENMARK

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Denmark	EU27 Mean	Denmark	EU27 Mean
Number of procedures	3	5	0 (0%)	1 (27%)
Time (days)	16	31	0 (0%)	9 (26%)
Cost (% of property value)	0.6	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	NA	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	66296	2118153	2157581	26868

Disposition Time: 5 days (EU27 mean: 49 days / EU27 median: 24 days)

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Denmark	EU27 Mean	Denmark	EU27 Mean
Number of procedures	4	6	0 (0%)	1 (16%)
Time (days)	7	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	0.0	5.2	0.0 (0%)	0.8 (24%)
% of procedures possible by Internet	NA	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	7175	11312	10724	7817

Disposition Time: 266 days (EU27 mean: 112 days / EU27 median: 10 days)

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Denmark	EU27 Mean
Time (years)	1.0	1.9
Cost (% of estate)	4.0	10.5
Recovery rate (%)	87.3	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	6461	6460
Number of firms	311518	312077
Ratio	2.1	2.1

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Denmark	EU27 Mean
Number	6.2	5.1
Time (days)	38	39
Cost (€)	215	309

The OECD reports an index of 2 which places Denmark in the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary⁵⁹ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ⁶⁰
TOTAL annual approved budget allocated to the functioning of all courts	216,795,693	39.0	0.16%
Annual public budget allocated to (gross) salaries	148,501,965	26.7	0.11%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	17,053,306	3.1	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	NAP	NAP	NAP
Annual public budget allocated to court buildings (maintenance, operating costs)	33,408,917	6.0	0.02%
Annual public budget allocated to investments in new (court) buildings	NA	NA	NA
Annual public budget allocated to training and education	2,012,585	0.4	0.001%
Other	15,818,920	2.8	0.01%

The overall budget of the justice system is 2,086,000,000 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, the Council of the judiciary and functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	501	34,348 ⁶¹	5,814	17	NA	NA
Number / population *100,000	9.0	617.7	104.6	0.3	NA	NA
Number / State + Local annual expenditure in Billions	3.7	252.1	42.7	0.1	NA	NA

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

⁵⁹ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

⁶⁰ General government expenditure is based on 2010 Eurostat data.

⁶¹ Includes lay judges.

There are 501 professional judges sitting in ordinary and administrative courts, including 367 at first instance, 115 at second instance and 19 at highest instance. Furthermore, there are no professional judges sitting in courts on an occasional basis. In addition to professional judges, in Denmark, there are 33,572 non-professional judges performing various judicial functions.

Non-judge staff

The number of non-judge staff units of personnel who are working in ordinary and administrative courts is not available. In Denmark, there are 275 Rechtspfleger or similar bodies with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal (deputy judge at the Danish courts).

The ratio of professional judges sitting in courts to non-judge staff working in courts is not available.

Other actors of the non-criminal justice system

Lawyers: there are 17 EU lawyers, established on the basis of Lawyers Directive 98/5 (15 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC) and 2 EU lawyers who have gained admission to the host member State under Art. 10 of Directive 98/5/EC). In civil cases, lawyers have a monopoly on legal representation, but family members and others can under certain circumstances represent, cf. Section 260 of the Danish Administration of Justice Act. From 2008 anyone can represent in cases under approximately 7000 euro. Regarding administrative cases, there is no special court for administrative cases in Denmark, therefore anyone can represent a client vis-a-vis the authorities.

Notaries: the function of a notary is an integrated function of the city courts. The services they provide include the certification of the authenticity of legal deeds and certificates. Most of the work of the notaries relates to signing of wills. The purpose is for the notary to confirm the identity of the person signing the will. The notary also guarantees that the person signing the will understands the meaning of making a will. Other notarial business may relate to the notary confirming the identity and powers of a person signing a certain document, for instance, in connection with enterprises entering into contracts with companies abroad.

Bailiffs acting as **enforcement agents:** enforcement agents are clerks and deputy judges. Their powers are regulated in the Courts Act. They have the power to collect debts.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available.

Incoming first instance non - criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non-criminal cases in 2010/ (judges and administrative personnel)
5,485	80	81

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been

solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Denmark 2010 data shows that computer facilities for supporting judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility to follow up on a case online, access to court electronic registers, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are not available in the courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):⁶²

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Denmark	4.0	4.0	0.5	2.8
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

⁶² ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Denmark	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	NA	164	82	133
	DT 2008	16	206	244	NA
	DT 2010	27	186	185	NA
Second instance	DT 2006	215	NA	NA	NA
	DT 2008	139	139	NA	NA
	DT 2010	139	139	NA	NA
Highest instance	DT 2006	363	NA	NA	NA
	DT 2008	NA	510	NA	NA
	DT 2010	NA	NA	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2011	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

The number of hearings is not available for Denmark.

Q10: Clearance Rate and number of pending cases by sector of judiciary

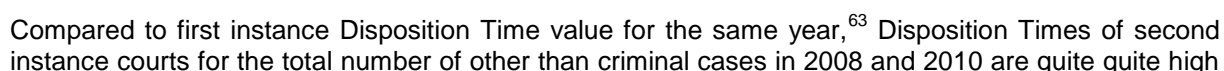
Denmark	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2011	First	101.85%	101.94%	110.03%	NA
	Second	95.37%	95.37%	NA	NA
	Highest	110.97%	135.41%	NA	NA

Denmark	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	205410	32981	2482	NA
	Second	2360	2360	NA	NA
	Highest	NA	NA	NA	NA

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

The **total** numbers of other than criminal incoming and resolved cases are not available for 2006.

The number of incoming **non-litigious civil and commercial** cases decreases by an average of 49.7% per year, from 69,537 in 2006 to 5,049 in 2008 to 4,448 in 2010, while the number of resolved cases decreases by an average of 48.1% per year, from 67,649 in 2006 to 5,174 in 2008 to 4,894 in 2010. At the same time, Disposition Time increases consistently between 2006 (82 days) and 2008 (244 days), to decrease to 185 days in 2010.


$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}\right)}\right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\left(\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}\right)}\right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}\right)}\right)}$$

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(139 days both in 2008 and 2010), although this is related to the very low Disposition Times first instance courts (respectively 16 days in 2008 and 16 in 2010). Disposition Time of second instance civil and commercial litigious cases in 2008 and 2010 are in line with first instance values for the same year, while Disposition Time highest instance civil and commercial litigious cases in 2008 (510 days) is high.

Q11: Number, average duration and costs of non-criminal⁶⁴ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	10464	8609	8524	10755	461	99.0%	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	36449	67876	69551	35463	186	102.5%	NA
litigious	33566	63428	64657	32981	186	101.9%	NA
non-litigious	2883	4448	4894	2482	185	110.0%	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Denmark (UIHJ data).

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
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$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

⁶⁴ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	36449	67876	69551	35463	186	102.5%	NA
litigious	33566	63428	64657	32981	186	101.9%	NA
non-litigious	2883	4448	4894	2482	185	110.0%	NA

In Denmark, a court annexed mediation or a judge worked on civil and commercial cases and family law cases (ex. divorce). Family law cases can also be worked on by a public authority (other than a court). A possibility to receive legal aid for mediation procedure does exist, mediation procedures offered by the courts are free of charge. The number of accredited or registered mediators who practice judicial mediation is not available.

Source: Danish Courts Administration:

The total number of judicial mediation cases, in other than criminal matters in Denmark in 2010 : 10,958 out of 69,322 civil cases dealt with at the District Courts were solved by an agreement, and the judge did not have to make a judgment. Of these 10,958 cases, 9,621 cases were civil cases and 1,337 cases were family (or family related) cases. 412 cases at the District Courts were settled by mediation in 2010. Of these 412 cases, 337 were civil cases and 75 family cases. However, there have been some uncertainties about the figure of 412. There was no separate data on commercial, administrative or employment dismissal cases. (Data source: the above figures derive from the statistics of the Danish Courts Administration and they concern only the District Courts. To be precise, it is the statistics with the technical name 10052 where 10,958 cases are the cases categorised by an Agreement and 412 cases categorised as a Mediation).

Average cost of judicial mediation procedure, in other than criminal matters in Denmark in 2010 : data non- available.

Average length of judicial mediation procedures, in other than criminal matters in Denmark in 2010 : the figures here stem only from District Courts. All cases settled by an agreement have an average length of 303 days to reach a settlement. Civil cases alone have an average length of 325 days and family cases have an average length of 140 days. For those 412 cases that are settled by mediation, the average length to reach an agreement is 249 days. Again, civil cases alone have an average length of time of 267 days and family cases - 170 days. It should be emphasised though that there have been some uncertainties about the figure of 412 cases. (Data source: the above figures derive from the Statistics of Danish Courts Administration and they concern only the District Courts. To be precise, it is the statistics with the technical name 10052 where 10,958 cases are the cases categorised by an Agreement and 412 cases categorised as a Mediation)

Total number of cases which are settled out through judicial mediation in other than criminal matters in Denmark in 2010: what is known about the 10,958 cases that are solved by an agreement is that they are solved without a judge having to make a judgment. There is no data as to whether people are satisfied about the settlement. It is likely though that in cases settled by mediation (412 cases), a mutual agreement between the two parties has been reached. The possibility also exists that a mediation solution is a lesser evil for one or the other part than a decision by the judge, but it is not known if this could be the case. It should again be emphasised that there have been some uncertainties about the figure of 412 cases. (Data source: the above figures derive from the statistics of the Danish Courts Administration and they concern only the District Courts. To be precise, it is the statistics with the technical name 10052 where 10,958 cases are the cases categorised by an Agreement and 412 cases categorised as a Mediation).

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	28649	187518	189357	28728	55	101.0%
2008	66449	349894	324256	92051	104	92.7%
2010	110859	425647	435624	105215	88	102.3%

Data on first instance courts' enforcement procedure, in the period 2006-2010, shows an overall negative trend, increasing by an average of 12.3% per year, going from 55 days in 2006 to 104 days in 2008 to improve to 88 days in 2010.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Denmark (UIHJ data).

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Denmark (UIHJ data).

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for Denmark (UIHJ data).

According to the European Judicial Atlas in Civil Matters, there are no fees for the service of judicial documents from another member State under Regulation 1393/2007⁶⁵.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA	NA

⁶⁵ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_dk_en.jsp

In 2010, the average length of proceedings in employment dismissal cases is not available. The % of pending cases for more than 3 years is not available.

Data on employment dismissal procedure motivations is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

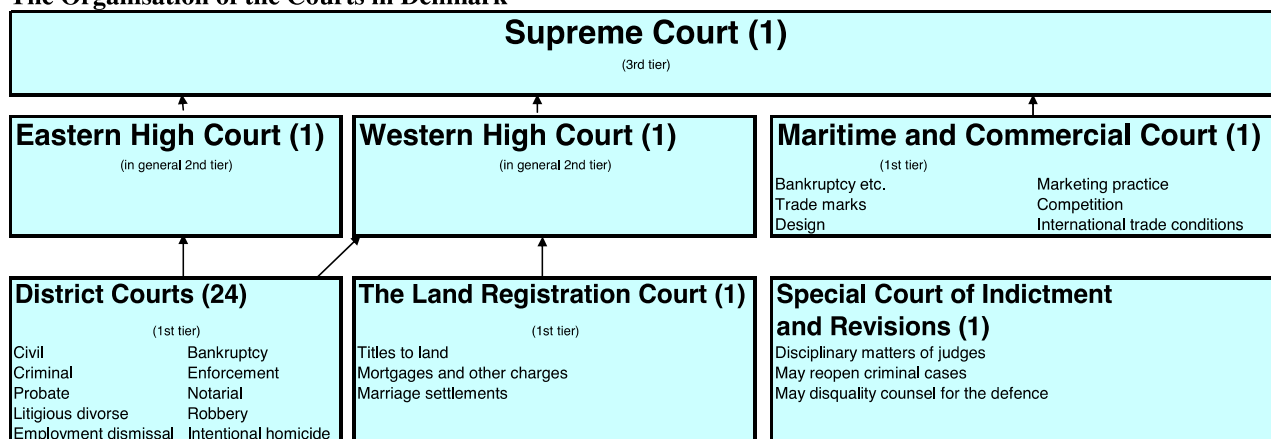
STRUCTURE OF COURTS

The Danish Courts are composed of the Supreme Court, the two high courts, the Maritime and Commercial Court, the Land Registration Court, 24 district courts, the courts of the Faroe Islands and Greenland, the Appeals Permission Board, the Special Court of Indictment and Revision, the Danish Judicial Appointments Council and the Danish Court Administration.

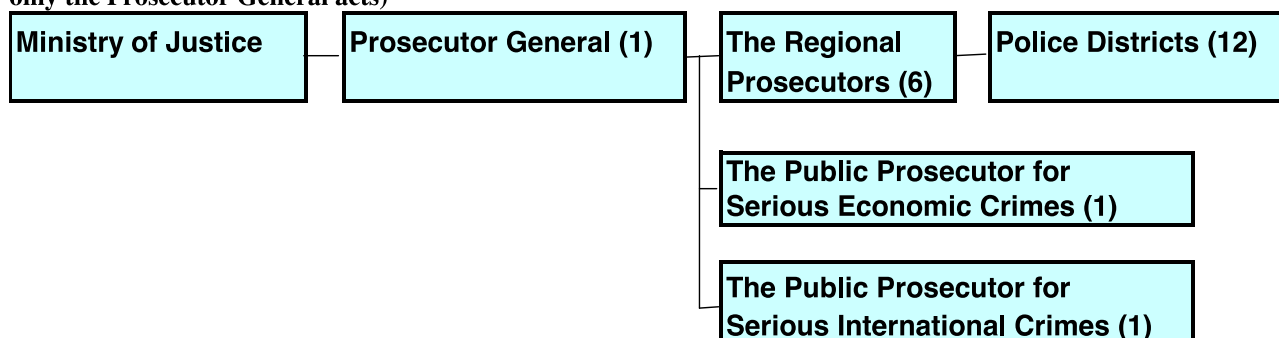
First instance court: 24 district courts, the land registration court, special court of indictment and revisions.

Second instance court: Eastern high court, western high court, maritime and commercial court.

The Organisation of the Courts in Denmark



The Organisation for the Prosecution (the prosecutors act at all levels except from the Supreme Court where only the Prosecutor General acts)



COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs, the individual courts are measured by an annual report. The main performance indicators at the level of the court system are: length of proceedings (timeframes), pending cases and backlogs, productivity of judges and court staff and satisfaction of users (regarding the services delivered by the courts). There are performance targets defined at the level of the court, the main targets applied to the courts

concerns case processing time for civil cases, criminal cases and enforcement cases. There are no specific quality standards for the judicial system as a whole. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable timeframe is in place but there is no system to monitor waiting time during court procedures.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Denmark	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Denmark is 216,795,693 € (neither public prosecution nor legal aid budget is included). This corresponds to 39.0 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.16% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Denmark has 9.0 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 617.7 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. The number of lawyers per 100,000 inhabitants is 104.6, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 11.6, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 49.4, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of first instance incoming litigious civil and commercial cases per 100 inhabitants is 1.1, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Denmark is 26.8 days, which corresponds to 0.11 times the EU27 average Disposition Time and 0.18 times the EU27 median Disposition Time. The situation is worsening compared to the 15.7 days of 2008. The Clearance Rate in 2010 is 101.8%, which means that the pending cases are slightly decreasing and the situation is stable.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 186.2 days, which corresponds to 0.65 times the EU27 average Disposition Time and 0.86 times the EU27 median Disposition Time. The situation is an improvement on the 205.6 days of 2008. At the same time, the situation in 2010 is worsening compared to the 163.9 days of 2006. The Clearance Rate in 2010 is 101.9%, which means that the pending cases are decreasing slightly and the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean⁶⁶.

	Denmark			EU27		
	Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	3	16	0.6	5	31	4.9
Starting business	4	7*	0.0	6	14	5.2
Licences	6.2	38*	215	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate⁶⁷.

	Denmark			EU27		
	Time	Cost	Recovery rate	Time	Cost	Recovery rate

⁶⁶ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

⁶⁷ See the methodological note for more details on this assessment.

Insolvency and bankruptcy	1.0	4.0	87.3	1.9	10.5	60.6
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6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Denmark	39.0	0.16%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Denmark is in line with the EU27 mean considering the budget in Euro per inhabitant, while is below it as % of the public expenditure.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Denmark	9.0	excluded	not available	104.6	11.6
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of professional judges and lawyers are in line with the EU27 mean, while the data on administrative personnel is not available and the data on lay judges is not comparable with those of other member States and has therefore been excluded.

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Denmark	49.4	1.1
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

The number of other than criminal cases per 100 inhabitants is consistently higher than the EU27 mean. This is due to a large number of land register cases. The number of litigious civil and commercial cases is in line with the EU mean, if on the low side.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Denmark	NA	15.7	26.8	101.85%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases is good, below half that of the EU27 mean and Clearance Rate is about 100% which means that the situation is stable and the system is capable of dealing with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Denmark	163.9	205.6	186.2	101.94%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases is adequate, below the EU27 mean, and Clearance Rate is about 100% which means that the situation is stable and the system is capable of dealing with incoming cases.

The system efficiency as the main categories are concerned is adequate.

Additional shortcomings: Disposition Time for small claims seems to be very high confronted to that of litigious civil and commercial cases. No data is available on employment dismissal cases; there are no specific quality standards for the judicial system as a whole; there is no system to monitor waiting time during court procedures; ICT infrastructure is not adequate as communication between courts and parties is concerned.

7. RECOMMENDATIONS

Business-friendliness:

No recommendation.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Denmark, the judicial system efficiency, as the main variables considered are concerned, is adequate. The small claims procedure should be better assessed.

Additional recommendations:

Monitoring and evaluation systems should be developed.

The possibility to introduce quality standards for the judicial system as a whole should be explored.

The ICT infrastructure should be extended with the development of tools for the communication between courts and parties. It could be useful to start from the development of ICT systems to support simplified procedures such as payment orders and small claims in order to gain the experience needed to manage more complex e-services. In other EU national contexts (i.e. UK England and Wales, Slovenia etc.), the creation of a single national electronic jurisdiction for the management of such claims has resulted in reduced technological and organisational complexity and a more efficient use of resources.

ANNEX: COUNTRY-STATISTICS

First instance

Denmark	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	26,678	12,959	28,649	NA	NA	NA	NA
	2008	104,990	31,285	3,584	66,449	NA	3,672	NA	NA
	2010	250702	33566	2883	110859	66296	7175	NA	29923
Incoming (number of cases)	2006	NA	63,171	69,537	187,518	3,322,420	NA	NA	NA
	2008	3117758	59,670	5,049	349,894	2,554,595	11,513	NA	137,037
	2010	2747822	63428	4448	425647	2118153	11312	NA	124834
Resolved (number of cases)	2006	NA	62,427	67,649	189,357	3,315,403	NA	5,465	1,338
	2008	3,103,306	58,366	5,174	324,256	2,569,037	8,937	NA	125171
	2010	2798651	64657	4894	435624	2157581	10724	NA	125171
Pending 31 Dec. (number of cases)	2006	NA	28,036	15,149	28,728	NA	NA	1,986	617
	2008	133,458	32,873	3,458	92,051	NA	5,076	NA	NA
	2010	205410	32981	2482	105215	26868	7817	NA	30047

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	99%	97%	101%	100%	NA	NA	NA
CR	2008	100%	98%	102%	93%	101%	78%	NA	91%
CR	2010	102%	102%	110%	102%	102%	95%	NA	100%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	164	82	55	NA	NA	133	168
DT (Days)	2008	16	206	244	104	NA	207	NA	NA
DT (Days)	2010	27	186	185	88	5	266	NA	88

Second instance

Denmark	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	4,503	NA	NA	NA	NA	NA	NA	NA
	2008	1,768	1768	NA	NA	NA	NA	NA	NA
	2010	2059	2059	NA	NA	NA	NA	NA	NA
Incoming (number of cases)	2006	6973	NA	NA	NA	NA	NA	NA	NA
	2008	5998	5,998	NA	NA	NA	NA	NA	NA
	2010	6499	6499	NA	NA	NA	NA	NA	NA
Resolved (number of cases)	2006	7,186	NA	NA	NA	NA	NA	NA	NA
	2008	5,679	5,679	NA	NA	NA	NA	NA	NA
	2010	6198	6198	NA	NA	NA	NA	NA	NA
Pending 31 Dec. (number of cases)	2006	4,230	NA	NA	NA	NA	NA	NA	NA
	2008	2,159	2,159	NA	NA	NA	NA	NA	NA
	2010	2360	2360	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	103%	NA	NA	NA	NA	NA	NA	NA
CR	2008	95%	95%	NA	NA	NA	NA	NA	NA
CR	2010	95%	95%	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	215	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	139	139	NA	NA	NA	NA	NA	NA
DT (Days)	2010	139	139	NA	NA	NA	NA	NA	NA

Highest instance

Denmark	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan.	2006	453	NA	NA	NA	NA	NA	NA	NA
	2008	NA	463	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Incoming	2006	456	NA	NA	NA	NA	NA	NA	NA
	2008	NA	257	NA	NA	NA	NA	55	68
	2010	310	209	NA	NA	NA	NA	34	67
Resolved	2006	452	NA	NA	NA	NA	NA	NA	NA
	2008	NA	319	NA	NA	NA	NA	NA	NA
	2010	344	283	NA	NA	NA	NA	NA	61
Pending 31 Dec.	2006	449	NA	NA	NA	NA	NA	NA	NA
	2008	NA	446	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
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CR	2006	99%							
CR	2008		124%						
CR	2010	111%	135%						91%

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
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DT (Days)	2006	363							
DT (Days)	2008		510						
DT (Days)	2010								



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

ESTONIA

Report
prepared by

Eric Dubois
Christel Schurrer
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experts appointed by the Bureau of the CEPEJ

Report prepared for
the European Commission (Directorate General Justice)

7. ESTONIA

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Estonia	EU27 Mean	Estonia	EU27 Mean
Number of procedures	3	5	2 (67%)	1 (27%)
Time (days)	18	31	17 (94%)	9 (26%)
Cost (% of property value)	0.3	4.9	0.1 (50%)	1.1 (21%)
% of procedures possible by Internet	50	43	100	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	3584	83742	83670	3652

Disposition Time: 16 days (EU27 mean: 49 days / EU27 median: 24 days)

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Estonia	EU27 Mean	Estonia	EU27 Mean
Number of procedures	5	6	2 (40%)	1 (16%)
Time (days)	6	14	2 (33%)	2 (17%)
Cost (% of per capita GNI)	1.7	5.2	1.7 (100%)	0.8 (24%)
% of procedures possible by Internet	100	83	100	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	4096	73687	75729	2169

Disposition Time: 10 days (EU27 mean: 112 days / EU27 median: 10 days)

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Estonia	EU27 Mean
Time (years)	3.0	1.9
Cost (% of estate)	9.0	10.5
Recovery rate (%)	36.9	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: 6-36 months⁶⁸

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	1029	504
Number of firms	62088	NA
Ratio	1.7	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Estonia	EU27 Mean
Number	4.0	5.1
Time (days)	25	39
Cost (€)	65	309

The OECD reports an index of 2 which places Estonia in the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

⁶⁸ According to the National Correspondent of Estonia for the UIHJ.

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary⁶⁹ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ⁷⁰
TOTAL annual approved budget allocated to the functioning of all courts	26,797,340	20.0	0.46%
Annual public budget allocated to (gross) salaries	20,629,784	15.4	0.36%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	271,414	0.2	0.00%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	841,964	0.6	0.01%
Annual public budget allocated to court buildings (maintenance, operating costs)	4,821,159	3.6	0.08%
Annual public budget allocated to investments in new (court) buildings	NA	NA	NA
Annual public budget allocated to training and education	214,574	0.2	0.00%
Other	18,445	0.01	0.00%

The overall budget of the justice system is 98,519,256 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, judicial protection of juveniles and functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	224	291	788	16	97	48
Number / population *100,000	16.7	21.7	58.8	1.2	7.2	3.6
Number / State + Local annual expenditure in Billions	38.5	50.1	135.6	2.8	16.7	8.3

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

⁶⁹ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

⁷⁰ General government expenditure is based on 2010 Eurostat data.

There are 224 professional judges sitting in ordinary and administrative courts, including 163 at first instance, 42 at second instance and 19 at highest instance. In non-criminal cases, there are no professional judges sitting in courts on an occasional basis and no non-professional judges performing various judicial functions.

Non-judge staff

Of the 976 non-judge staff units of personnel who are working in ordinary and administrative courts, for 468 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Other 339 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Finally, there are 91 technical staff and 11 other units. In Estonia, there are 67 Rechtspfleger or similar bodies with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal. Rechtspfleger in Estonia are called assistant judges. An assistant judge is a court official who performs the duties specified by law. Upon performance of his or her duties, an assistant judge is independent but shall comply with the instructions of a judge to the extent prescribed by law. Assistant judges are competent to make entries in a register and enter rulings concerning the maintenance of a register therein, including rulings which impose a fine. These registers involve land register, marital property register, succession register, commercial register, non-profit associations and foundations register, commercial pledge register and ship register. Assistant judges are also competent in civil cases to assist judges in preparing the case for hearing and in some non-litigious cases when prescribed by law.

The ratio of professional judges sitting in courts to non-judge staff working in courts is 1 to 4.4.

Other actors of the non-criminal justice system

Lawyers: there are 16 EU lawyers who have gained admission to the host member State under Art. 10 of Directive 98/5/EC). In civil and administrative cases before the Supreme Court, the representative must be a sworn advocate. In first and second instances, the representatives may also be: persons who have completed the national curriculum of academic legal studies; procurists in all court proceedings related to the economic activities of a participant in the proceedings; one plaintiff on the authorisation of the co-plaintiffs or one defendant on the authorisation of the co-defendants; ascendants, descendants and spouses of the participants in proceedings; other persons whose right to act as a contractual representative is provided by law.

A public servant or employee of a participant in the proceedings may act as a contractual representative of the participant in the proceedings if the court considers him or her to have sufficient expertise and experience to represent the participant in the proceedings.

Notaries: they are private professionals under the authority of public authority. Notaries have duties in the framework of civil procedure, in the field of legal advice, to certify the authenticity of legal deeds and certificates and authentication of contraction of marriage and divorce, issues of apostilles, deposits of money, securities, documents.

Bailiffs acting as **enforcement agents:** the bailiffs practicing as private professionals under the authority of public authorities. Bailiffs organise the enforcement of enforcement instruments.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available.

Incoming first instance non criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non - criminal cases in 2010/ (judges and administrative personnel)
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The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Estonia 2010 data shows that computer facilities for supporting judges' and court registrar's activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility to follow up on a case online, access to court electronic registers, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are available in 100% of courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):⁷¹

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Estonia	4.0	4.0	4.0	4.0
EU27 Average	3.9	3.6	2.4	3.3

⁷¹ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

EU27 Median	4.0	4.0	2.4	3.3
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3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Estonia	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	215	NA	NA	132
	DT 2008	133	232	453	121
	DT 2010	120	215	87	146
Second instance	DT 2006	110	NA	NA	104
	DT 2008	142	181	76	133
	DT 2010	97	102	30	140
Highest instance	DT 2006	79	76	NA	84
	DT 2008	125	86	NA	167
	DT 2010	125	133	NA	115

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Estonia	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	110.90%	97.62%	115.98%	91.20%
	Second	102.44%	108.50%	99.58%	93.01%
	Highest	87.41%	84.57%	NA	92.23%

Estonia	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
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other cases)				
Pending 31 Dec. (number of cases)	First	27675	12425	13949
	Second	1160	580	76
	Highest	88	54	NA

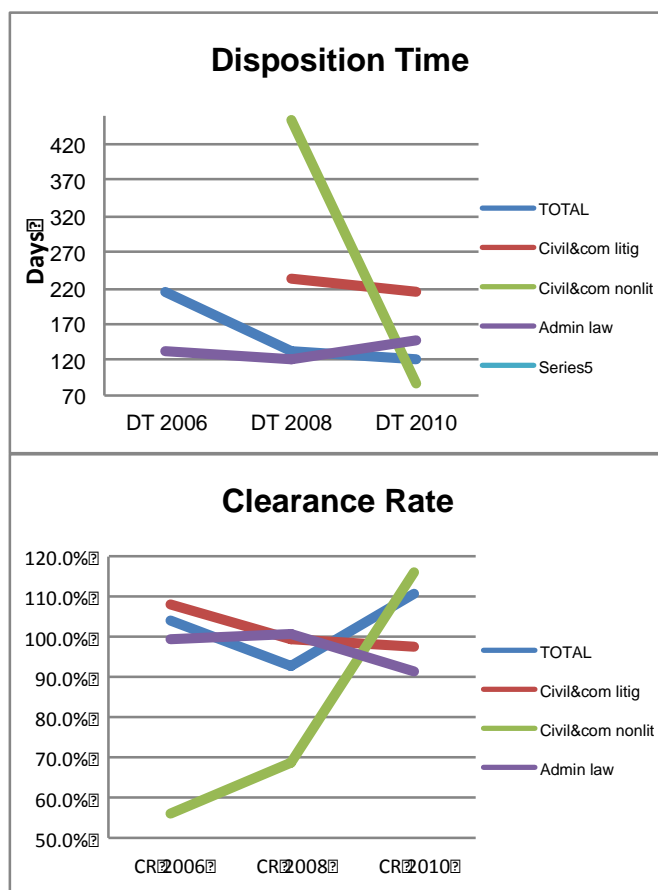
A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

In this period, the **total** number of other than criminal cases cannot be properly confronted, as it is not calculated homogeneously in the different evaluation exercises.

At the same time, the number of incoming **litigious civil and commercial** cases decreases by an average of 4.5% per year, from 25,943 in 2006 to 19,778 in 2008 to 21,622 in 2010, while the number of resolved cases decreases by an average of -6.9% per year, from 28,118 in 2006 to 19,630 in 2008 to 21,107 in 2010. It is possible to calculate the Disposition Time in litigious civil and commercial cases only for the period of 2008-2010. Such data shows a stable situation decreasing by an average of 3.7% per year, from 232 days in 2008 to 215 days in 2010.

The number of incoming **non-litigious civil and commercial** cases increases by an average of 30.3% per year, from 17,574 in 2006 to 73,615 in 2008 to 50,687 in 2010, while the number of resolved cases increases by an average of 56.4% per year, from 98,20 in 2006 to 50,522 in 2008 to 58,786 in 2010.

The number of incoming **administrative** cases increases by an average of 8.6% per year, from 2,552 in 2006 to 2,736 in 2008 to 3,556 in 2010, while the number of resolved cases increases by an average of 6.3% per year, from 2,542 in 2006 to 2,757 in 2008 to 3,243 in 2010. Data on first instance administrative court Disposition Time in the period 2006-2010 shows a stable situation, increasing by an average of 2.6% per year, from 132 days in 2006 to 121 days in 2008 to 146 days in 2010.



Compared to first instance Disposition Time value for the same year,⁷² Disposition Times of second and highest instance courts for the total number of other than criminal cases in 2006 are quite low (110 and 79 days respectively) . This is partly due to the first instance Disposition Time in 2006 (215 days) compared to that of the following years (133 and 120 days respectively). Disposition Time of second instance civil and commercial litigious cases in 2010 and non litigious cases in 2008 and 2010 are low compared to first instance Disposition Time values for the same years, and so is Disposition Time of highest instance civil and commercial litigious cases in 2008. All other second and highest instance Disposition Time values available are in line with to first instance values for the same years, apart from highest instance administrative cases Disposition Time in 2008 which results by comparison quite high.

⁷² Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{((\text{FirstInstance DT CaseCategory X, Year Y}) - (\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}))}{((\text{FirstInstance DT of CaseCategory X, Year Y}) - (\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}))} - \frac{((\text{SecondInstance DT CaseCategory X, Year Y}) - (\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}))}{((\text{FirstInstance DT of CaseCategory X, Year Y}) - (\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}))}$$

For highest instances:

$$\frac{((\text{FirstInstance DT CaseCategory X, Year Y}) - (\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}))}{((\text{FirstInstance DT of CaseCategory X, Year Y}) - (\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}))} - \frac{((\text{HighestInstance DT CaseCategory X, Year Y}) - (\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}))}{((\text{FirstInstance DT of CaseCategory X, Year Y}) - (\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}))}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

Q11: Number, average duration and costs of non-criminal⁷³ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	NA	NA	NA	NA	NA	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	21049	39665	49116	11233	83	123.8%	NA

First instance and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	35482	72309	79893	26374	120	110.5%	NA
litigious	12046	21622	21107	12425	215	97.6%	NA
non-litigious	23436	50687	58786	13949	87	116.0%	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

Source UIHJ: the average duration of a procedure of recognition of a judgment under the Brussels I Regulation (Regulation (EC) 44/2001 of 22 December 2000) is unknown, while its average cost is 63,91 euros. On the other hand, the average duration of an exequatur procedure of a judgment in civil and commercial matter coming from a non-EU country is unknown, and concerning its average cost, it costs nothing for the debtor same as in case of domestic claim.

If a decision taken in civil and commercial matter from another State of European Union has been recognised in Estonia under the Brussels I Regulation, and in absence of voluntary compliance by the debtor, the average percentage of decisions fully or partially enforced is unknown. The average percentage of decisions whose implementation has not been possible due to the failure of the debtor is unknown too.

The causes that prevented the enforcement of the court decision are (from the least frequent to the most frequent cause): it was impossible to obtain information about the debtor's assets, including their location; the debtor is subject of bankruptcy proceedings or an equivalent procedure; enforcement procedures in place were not successful for various reasons; the debtor has left no forwarding address or has no longer a known address; the debtor is insolvent.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

⁷³ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	2889	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	118	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	35482	72309	79893	26374	120	110.5%	NA
litigious	12046	21622	21107	12425	215	97.6%	NA
non-litigious	23436	50687	58786	13949	87	116.0%	NA

In Estonia, a private mediator worked on civil and commercial cases, family law cases (ex. divorce), administrative cases and employment cases. There are 79 accredited or registered mediators who practice judicial mediation. It is possible to receive legal aid in any case and if there is a possibility for a mediation procedure, it is covered by legal aid. A person who receives legal aid can use it also for the mediation procedures taking place in the middle of court proceedings.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	147	483	368	262	260	76.2%
2010	NA	NA	NA	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

Enforcement proceedings in domestic law: the average length of enforcement proceedings in civil and commercial matter is unknown. There is a maximum time to enforce a court decision in this matter: 10 years from 05/04/2011. The enforcement agent in charge of enforcing a court decision can not grant the debtor installments for the payment of the debt. (UIHJ data)

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

Unknown (UIHJ data)

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

In 2009 (no data for 2010) in accordance with Regulation (EC) No 1393/2007 of 13 November 2007 133 judicial and extrajudicial documents from another member State of the European Union are served in Estonia (no data about the average length). 119 documents were transmitted in 2009 by Estonia to be served in another EU member State in accordance with Regulation (EC) No 1393/2007. According to the European Judicial Atlas in Civil Matters, generally documents are served without charge under Regulation 1392/2007 are imposed. One exception to this is that procedural documents may be served through a bailiff (i.e. when forced service is requested). A fee of EEK 350 (around EUR 23) is charged if the documents have been served, and EEK 200 (around EUR 13) if it has not proved possible to do so. In all cases the "invoice" (incl. payment information, deadline, etc.) is added to the documents to be returned to the applicant⁷⁴. (UIHJ data)

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	NA	NA	NA	NA	NA
2008	464	575	550	489	325	95.7%	24,3
2010	559	682	714	485	248	104.7%	19

In 2010, the average length of proceedings in employment dismissal cases is of 274 days in 1st instance courts, 176 days in 2nd instance courts, and for 3rd instance courts it is not available. The % of pending cases for more than 3 years is 8,7days.

Data on employment dismissal procedure motivations is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

Estonia has a three-level court system. County courts (17 courthouses in total) and administrative courts (each court has 2 courthouses) adjudicate matters in the first instance. Appeals against decisions of courts of first instance shall be heard by the courts of second instance. 2 courts of appeal are the courts of second instance (sometimes also called circuit courts or district courts). The courts of appeal are situated in Tartu and Tallinn. The Supreme Court, situated in Tartu, is the court of the highest instance.

⁷⁴ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_ee_en.jsp?countrySession=17&

A statement of claim is filed with the court of first instance, an appeal with the court of second instance and an appeal in cassation with the court of third or the highest instance. A matter shall be heard in the Supreme Court only after all previous court instances have been passed. The filing of an appeal is governed by respective codes of court procedures.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs (at least twice a year and then discussed individually with the chairmen and at the Courts Administration Council). The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), closed cases, pending cases and backlogs, productivity of judges and court staff, percentage of cases that are processed by a single sitting judge and costs of the judicial procedure. There are performance targets set at the level of the courts, the main targets of the courts are for example the percentages of old pending cases. There are no specific quality standards for the judicial system as a whole. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time and monitor waiting time during court procedures is in place.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Estonia	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

One of the momentous factors in the development of Estonia's courts is definitely the fact that the judges have determined the principles of development of the court system. The discussion about the development of the court system's self-organisation, its financing and administration culminated in February 2007, when the Court en banc comprised of all Estonian judges approved the principles of development of the court system. The document concerning the principles of development of the court system as an independent branch of power, for the first time in the history of Estonia, set out the directions and objectives of its development. The main objective of the reform is that, for further development of the principle of separation of powers, the administration of courts should be separated from the executive power and an independent administrative authority, which is a part of the single court system in legal and organisational senses and subjected to the management model of the court system as a whole, should be established.

In March 2008, the Minister of Justice established a working group to prepare the amendments to the legislation regulating judicial administration and organisation. The draft of the Courts Act was presented to the Estonian Parliament in 2009. In March 2011, the draft of the Courts Act was withdrawn from legislative proceeding upon termination of the term of authority of the Parliament. No new draft law has been yet introduced.

The possibility to consolidate certain proceeding in certain centers was also discussed, such as prisoner complaints in administrative courts, and procurement cases. In 2009, Payment Order Center

was opened in Estonia, which is at the moment solving about 50% of civil cases. Thus, it has demonstrated a great success.

Finally, concerning mediation and other ADR: there has been a recent reform in the domain of judicial mediation. On 18 November 2009, the Estonian Parliament adopted the Conciliation Act (in Estonian *lepitusseadus*), which came into force on 1 January 2010.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Estonia is 26,797,340 € (neither public prosecution nor legal aid budget is included). This corresponds to 20.0 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.46% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Estonia has 16.7 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 21.7 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and *Rechtspfleger* for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 89.5 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 58.8, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 3.5, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases, but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total numbers of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 5.7, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of first instance incoming litigious civil and commercial cases per 100 inhabitants is 1.6, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and the Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Estonia is 120.1 days, which corresponds to 0.48 times the EU27 average Disposition Time and 0.81 times the EU27 median Disposition Time. Data is not confronted to that of the previous years as it is the result of the aggregation of different categories of cases. The Clearance Rate in 2010 is 110.9%, which means that the pending cases are decreasing and the situation is improving.

As Disposition Time of litigious civil and commercial cases is concerned, in 2010 it is 214.9 days, which corresponds to 0.76 times the EU27 average Disposition Time and 1.00 times the EU27 median Disposition Time. The situation is an improvement on the 231.8 days of 2008. The Clearance Rate in 2010 is 97.6%, which means that the pending cases are increasing slightly and the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean⁷⁵.

		Estonia			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	3	18	0.3	5	31	4.9
Starting business		5	6*	1.7	6	14	5.2
Licences		4.0	25*	65	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate⁷⁶.

		Estonia			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		3.0	9.0	36.9	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean;

⁷⁵ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

⁷⁶ See the methodological note for more details on this assessment.

and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Estonia	20.0	0.46%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Estonia is below the EU27 mean considering the Euro per inhabitant allocated, while it is in line in relation to the percentage of public expenditure.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Estonia	16.7	21.7	89.5	58.8	3.5
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel and lawyers are in line with the EU27 mean.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Estonia	5.7	1.6
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

The number of other than criminal cases, the number of litigious civil and commercial cases per 100 inhabitants is in line with the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Estonia	215.1	132.8	120.1	110.90%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in 2010 is good, below half that of the EU27 mean and the Clearance Rate is over 110% which means that the system is improving and reducing the number of pending cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Estonia	NA	231.8	214.9	97.62%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases is adequate, below the EU27 mean and the Clearance Rate is about 100%, which means that the situation is stable and the system is capable of dealing with incoming cases.

The system efficiency as the main categories are concerned is between adequate and good.

Other strengths: Introduction in 2009 of the Payment Order Center, which at present is dealing with about 50% of cases; ICT infrastructure is well developed.

Other shortcomings: no specific quality standards for the judicial System as a whole.

7. RECOMMENDATIONS

Business-friendliness:

The duration of insolvency and bankruptcy procedures should be sharply reduced with a duration of 2 years as an objective. The recovery rate from these procedures should be also sharply increased with a rate of 80% as an objective.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Estonia, the court system is performing well, and no specific recommendation is required.

Additional recommendations:

The possibility to introduce quality standards for the judicial system as a whole should be explored.

The effects of the Conciliation Act should be monitored and data on Mediation and ADR collected, analysed and shared

ANNEX: COUNTRY-STATISTICS

First instance

Estonia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	22,675	NA	NA	NA	NA	NA	1,111	NA
	2008	74,161	12,318	39,648	147	5,292	15,823	933	NAP
	2010	36716	12046	23436	NA	NA	NA	1174	NAP
Incoming (number of cases)	2006	33619	25,943	17,574	NA	NA	NA	2,552	NA
	2008	279192	19,778	73,615	483	115,560	67,020	2,736	NAP
	2010	75865	21622	50687	NA	83804	NA	3556	NAP
Resolved (number of cases)	2006	34,901	28,118	9,820	NA	NA	NA	2,542	NA
	2008	259,078	19,630	50,522	368	117,082	68,719	2,757	NAP
	2010	84136	21107	58786	NA	83795	NA	3243	NAP
Pending 31 Dec. (number of cases)	2006	20,564	NA	NA	NA	NA	NA	921	NA
	2008	94,275	12,466	62,741	262	3,770	14,124	912	NAP
	2010	27675	12425	13949	NA	9	NA	1301	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	104%	108%	56%	NA	NA	NA	100%	NA
CR	2008	93%	99%	69%	76%	101%	103%	101%	NA
CR	2010	111%	98%	116%	NA	100%	NA	91%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	215	NA	NA	NA	NA	NA	132	NA
DT (Days)	2008	133	232	453	260	12	75	121	NA
DT (Days)	2010	120	215	87	NA	0.04	NA	146	NA

Second instance

Estonia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	977	NA	NA	NA	NA	NA	436	NA
	2008	1,074	573	117	23	47	16	342	8
	2010	1269	743	117	NAP	NA	NA	409	NAP
Incoming (number of cases)	2006	3171	NA	NA	NA	NA	NA	959	NA
	2008	3869	1,803	347	91	256	166	1,161	45
	2010	4266	1907	942	NAP	NA	NA	1417	NAP
Resolved (number of cases)	2006	3,075	NA	NA	NA	NA	NA	1,076	NA
	2008	3,559	1,588	341	86	246	161	1,102	35
	2010	4370	2069	938	NAP	NA	NA	1318	NAP
Pending 31 Dec. (number of cases)	2006	930	NA	NA	NA	NA	NA	308	NA
	2008	1,384	788	71	28	57	21	401	18
	2010	1160	580	76	NAP	NA	NA	504	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	97%	NA	NA	NA	NA	NA	112%	NA
CR	2008	92%	88%	98%	95%	96%	97%	95%	78%
CR	2010	102%	108%	100%	NA	NA	NA	93%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	110	NA	NA	NA	NA	NA	104	NA
DT (Days)	2008	142	181	76	119	85	48	133	188
DT (Days)	2010	97	102	30	NA	NA	NA	140	NA

Highest instance

Estonia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	38	23	NA	NA	NA	NA	15	NA
	2008	54	21	NAP	2	0	0	31	NAP
	2010	51	27	NA	2	0	0	22	NAP
Incoming (number of cases)	2006	266	161	NA	NA	NA	NA	105	NA
	2008	283	158	NAP	20	1	1	103	NAP
	2010	294	175	NA	12	3	1	103	NAP
Resolved (number of cases)	2006	249	153	NA	NA	NA	NA	96	NA
	2008	251	145	NAP	14	0	0	92	NAP
	2010	257	148	NA	10	3	1	95	NAP
Pending 31 Dec. (number of cases)	2006	54	32	NA	NA	NA	NA	22	NA
	2008	86	34	NAP	8	1	1	42	NAP
	2010	88	54	NA	4	0	0	30	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	94%	95%	NA	NA	NA	NA	91%	NA
CR	2008	89%	92%	NA	70%		0%	89%	NA
CR	2010	87%	85%	NA	83%	100%	100%	92%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	79	76	NA	NA	NA	NA	84	NA
DT (Days)	2008	125	86	NA	209			167	NA
DT (Days)	2010	125	133	NA	146	0	0	115	NA

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

FINLAND

Report
prepared by

Eric Dubois
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Report prepared for
the European Commission (Directorate General Justice)

8. FINLAND

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Finland	EU27 Mean	Finland	EU27 Mean
Number of procedures	3	5	0 (0%)	1 (27%)
Time (days)	16	31	0 (0%)	9 (26%)
Cost (% of property value)	4.0	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	33	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	11000	263000	252000	22000

Disposition Time: 32 days (EU27 mean: 49 days / EU27 median: 24 days)

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Finland	EU27 Mean	Finland	EU27 Mean
Number of procedures	3	6	0 (0%)	1 (16%)
Time (days)	14	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	1.0	5.2	0 (0.0%)	0.8 (24%)
% of procedures possible by Internet	67	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	418485	425629	9000

Disposition Time: 8 days (EU27 mean: 112 days / EU27 median: 10 days)

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Finland	EU27 Mean
Time (years)	0.9	1.9
Cost (% of estate)	4.0	10.5
Recovery rate (%)	89.1	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	3400	2870
Number of firms	320952	322472
Ratio	1.1	0.9

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Finland	EU27 Mean
Number	3.4	5.1
Time (days)	32	39
Cost (€)	301	309

The OECD reports an index of 2 which places Finland in the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary⁷⁷ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ⁷⁸
TOTAL annual approved budget allocated to the functioning of all courts	243,066,350	45.2	0.24%
Annual public budget allocated to (gross) salaries	184,667,056	34.4	0.18%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	11,967,040	2.2	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	8,124,195	1.5	0.01%
Annual public budget allocated to court buildings (maintenance, operating costs)	31,586,338	5.9	0.03%
Annual public budget allocated to investments in new (court) buildings	NA	NA	NA
Annual public budget allocated to training and education	NA	NA	NA
Other	6,721,721	1.3	0.01%

In this table, "other" includes: industrial health services, postage, office supplies, telephone and telecommunications services.

The overall budget of the justice system is 792,410,000 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, functioning of the Ministry of Justice and enforcement agents and election expenditure. There are also some other (small) offices under the administrative sector of the Ministry of Justice (all included) like Legal Register Centre, Office of the Bankruptcy Ombudsman, Office of the Data Protection Ombudsman, National Council for Crime Prevention, Accident Investigation Board Finland, National Research Institute of Legal Policy and the ICT Service Centre for the Judicial Administration.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	967	4,656 ⁷⁹	1,893	6	136	736

⁷⁷ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

⁷⁸ General government expenditure is based on 2010 Eurostat data.

⁷⁹ Includes lay judges

Number / population *100,000	18.0	86.6	35.2	0.1	NA	13.7
Number / State + Local annual expenditure in Billions	9.7	46.6	19.0	0.1	NA	7.4

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

There are 967 professional judges sitting in ordinary and administrative courts, including 731 at first instance, 193 at second instance and 43 at highest instance. In addition to professional judges, in Finland, there are 3,689 non-professional judges (lay members in District Courts) performing various judicial functions. This lay members or "Lay Judges" participate in making the decisions in certain cases. The composition of Lay Judges consists of the ordinary judge at the District Court, acting as the chairperson, and three Lay Judges. Every municipality must have at least two Lay Judges and large municipalities considerably more than this.

Non-judge staff

In Finland, there are 2,285 non-judge staff working in courts (office staff: 1479, summoners: 272, trainee district judges: 130, junior district judges: 15, referendaries: 389). There is no Rechtspfleger or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff working in courts is 1 to 2.4.

Other actors of the non-criminal justice system

Lawyers: there are 6 EU lawyers, established on the basis of Lawyers Directive 98/5 (4 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC) and 2 EU lawyers who have gained admission to the host member State under Art. 10 of Directive 98/5/EC). In civil and administrative cases, lawyers have no monopoly on legal representation. This number does not include legal advisors.

Notaries: they are public agents. The services they provide include the certification of authenticity of legal deeds. The public notary working in a local register office handles the notarisation of, among other things, signatures, copies of certificates and the authentication of curriculum vitae. In addition, he or she handles protests of bills of exchange, the opening and closing of safe-deposit boxes as well as the monitoring of lotteries.

Bailiffs acting as **enforcement agents:** enforcement agents are bailiffs working in a public institution.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available.

Incoming first instance non criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non- criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non- professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non - criminal cases in 2010/ (judges and administrative personnel)
403	84	56

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than

criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Finland 2010 data shows that computer facilities for supporting judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility of access to court electronic registers, using a service for the electronic processing of small claims and undisputed debt recovery, or e-filing are available in 100% of courts; on the other hand, the possibility to follow-up on a case online is not available in the courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):⁸⁰

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Finland	4.0	4.0	3.5	3.8
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

⁸⁰ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Finland	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	50	216	85	328
	DT 2008	58	230	84	207
	DT 2010	98	259	77	238
Second instance	DT 2006	219	257	85	NA
	DT 2008	180	212	91	NA
	DT 2010	172	223	105	NA
Highest instance	DT 2006	213	105	197	261
	DT 2008	281	136	257	336
	DT 2010	NA	NA	NA	362

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Number of hearings: 1st instance, district courts: in 2010, the hearings of 352356 civil cases were concluded in written preparation, hearings of 3464 cases were concluded in oral preparation and hearings of 4838 cases in a main hearing. These are all together 360658 hearings.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Finland	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	101%	93%	101%	99%
	Second	101%	103%	99%	NA
	Highest	NA	NA	NA	92%

Finland		Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First		104691	7164	72104	20217
	Second		1831	1287	335	NAP
	Highest		NA	NA	NA	4173

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

Overall, in the 2006-2010 period, the **total** number of incoming other than criminal cases decreases by an average of 15.1% per year, from 750,936 in 2006 to 642,751 in 2008 to 389,479 in 2010, while the number of resolved cases decreases by an average of 14.7% per year, from 741,361 in 2006 to 635,813 in 2008 to 391,908 in 2010. Disposition Time for other than criminal cases shows a negative trend, increasing by an average of 18.5% per year, from 50 days in 2006 to 58 days in 2008 to 98 days in 2010.

In the same period, the number of incoming **litigious civil and commercial** cases increases by an average of 4.2% per year, from 9,200 in 2006 to 9,703 in 2008 to 10,845 in 2010, while the number of resolved cases increases by an average of 2.8% per year, from 9,072 in 2006 to 9,399 in 2008 to 10,112 in 2010. Disposition Time shows a somewhat stable situation, increasing by an average of 4.6% per year, from 216 days in 2006 to 230 days in 2008 to 259 days in 2010.

The number of incoming **non-litigious civil and commercial** cases increases by an average of 15.6% per year, from 188,984 in 2006 to 268,554 in 2008 to 337,125 in 2010, while the number of resolved cases increases by an average of 16.8% per year, from 183,361 in 2006 to 255,592 in 2008 to 340,973 in 2010. Disposition Time in non-litigious civil and commercial cases shows a stable situation, decreasing by an average of 2.5% per year, from 85 days in 2006 to 84 days in 2008 to 77 days in 2010.

The number of incoming **administrative** cases decreases by an average of 2.7% per year, from 35,083 in 2006 to 28,369 in 2008 to 31,397 in 2010, while the number of resolved cases decreases by an average of 1.9% per year, from 33,574 in 2006 to 32,931 in 2008 to 31,043 in 2010. Disposition Time in administrative cases shows an overall positive trend, decreasing by an average of 7.7% per year, decreasing initially from 328 days in 2006 to 207 days in 2008 to increase again to 238 days in 2010.



Compared to first instance Disposition Time values for the same years,⁸¹ Disposition Times of second and highest instance courts for the total number of other than criminal cases in 2006 and 2010 are quite high (219 and 180 days in second instance and 213 and 281 days in highest instance and 79 days respectively). This is partly due to the first instance Disposition Time in 2006 and 2008 being much lower than that in 2010 (50 days in 2006, 58 in 2010, and 98 days in 2010). Disposition Time of highest instance civil and commercial litigious cases in 2008 are low compared to first instance values for the same year, while Disposition Time of highest instance civil and commercial non litigious cases in 2006 and 2008 and Administrative cases in 2008 and 2010 are comparatively high. All other second and highest instance Disposition Time values available are in line with first instance values for the same years.

⁸¹ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

Q11: Number, average duration and costs of non-criminal⁸² court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	NA	NA	NA	NA	NA	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	NAP	NAP	NAP	NAP	NA	NA	NAP
Undisputed Civil Matters	60596	301007	304902	56701	68	101.3%	70

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	82383	347970	351085	79268	82	100.9%	NA
litigious	6431	10845	10112	7164	259	93.2%	NA
non-litigious	75952	337125	340973	72104	77	101.1%	NA

Small claims do not exist as a legal term in Finland. Undisputed civil matters can be dealt with in a summary proceeding. According to the Code of Judicial Procedure (4/1734), if the case relates to (1) a debt of a specific sum, (2) restoration of possession or a disrupted circumstance, or (3) eviction and the plaintiff states that to his/her knowledge the matter is not under dispute, only the circumstances on which the claim is immediately based need be included in the application for a summons as the circumstances on which the application is based. Also, in this event, the evidence does not need to be included in the application. However, the contract, commitment or other written evidence invoked by the plaintiff shall be clearly indicated.

In 2010, there were 301,007 incoming undisputed civil matter cases, 172,952 of them were filed via electronic filing system.

In 2010, in civil case whose hearing was concluded in written preparation (like undisputed civil cases), the court fee was 70 euro. In 2012, the court fees are following: civil case with hearing concluded in written preparation: 80 euro; and civil case with hearing concluded by a default judgement, the particulars of which have been entered directly in the data system: 60 euro.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Finland (UIHJ data).

⁸² "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	See below	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NAP	NAP	NAP	NAP	NAP	NAP	NAP
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	82383	347970	351085	79268	82	100.9%	NA
litigious	6431	10845	10112	7164	259	93.2%	NA
non-litigious	75952	337125	340973	72104	77	101.1%	NA

In Finland, a private mediator, a court annexed mediation, a private mediator or a public authority (other than a court) worked on civil and commercial cases, family law cases (ex. divorce) and employment cases. A possibility to receive legal aid for mediation procedure does exist: legal aid covers court annexed mediation in full when other requirements are fulfilled.

In normal civil proceedings, a judge has to promote a settlement and in practice Finnish judges are active mediators during the preparation of a civil case. In civil cases initiated by large application for summons (regular disputed civil cases), 6721 of cases were settled during preparation in 2010. This is 72 % of all decisions (9314). The Act on Court Annexed Mediation in civil cases (663/2005) entered into force on 1 January 2006. According to the Act, disputes can also be mediated at court, as an alternative to civil proceedings. The judge serves as a facilitator of the process.

Family conciliation in Finland is most often offered by the municipal social welfare authorities and the Family Counselling Centres of the Church.

The Finnish Bar Association has a mediation service based on their own mediation rules. In addition, the Arbitration Institute of the Central Chamber of Commerce of Finland promotes as an impartial body the settlement of business disputes by arbitration. The Arbitration Institute appoints arbitrators and administers the arbitration proceedings complying with its Rules.

In 2010, there were 57 incoming cases, i.e. 57 requests for arbitration. During the year of 2010, 47 arbitrators were appointed by the Arbitration Institute.

In addition to mediation services mentioned above, there are also many different advisory services which can act as an alternative dispute resolution. Some Finnish examples are municipal consumer advisory service, financial advice and debtors' advice.

Fees: the Arbitration Institute charges a registration fee for the request for arbitration, as well as for any counterclaims or set-off claims that are presented. The registration fee is determined on the basis of the amount in dispute, minimum fee EUR 1500 and maximum EUR 95 500. The fee for the

appointment of a conciliator is EUR 5000. The Arbitration Institute of the Finland Chamber of Commerce has a table of suggested fees for arbitrators in arbitrations conducted under the Arbitration Institute's Rules and Rules for Expedited Arbitration. The arbitrators' fees are also determined on the basis of the amount in dispute from minimum EUR 2000 to maximum EUR 94 000 + 0,24% of any amount exceeding EUR 10 000 000, and if the amount in dispute is over EUR 15 000 000, the fee is to be determined by the Arbitration Institute (table is found at internet: <http://www.arbitration.fi/en/arbfees.html>).

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	252	1032	951	339	130	92.2%
2008	314	1038	1014	338	122	97.7%
2010	350	1055	1055	350	121	100.0%

Data on first instance courts' enforcement procedure, in the period 2006-2010, show a stable situation, with the Disposition Time decreasing by an average of 1.8% per year, from 130 days in 2006 to 122 days in 2008 to 121 days in 2010.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Finland (UIHJ data).

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Finland (UIHJ data).

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is free of charge for foreign transmitting agencies⁸³.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

⁸³ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_fi_en.jsp?countrySession=13&

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	360	517	513	364	259	99.2%	48,8
2008	435	622	586	471	293	94.2%	53,6
2010	477	654	630	501	290	96.3%	52

In 2010, the average length of proceedings in employment dismissal cases is 270 days in 1st instance courts, 312 days in 2nd instance courts, and 189 days in 3rd instance courts. The % of pending cases for more than 3 years is not available.

Data on employment dismissal procedure motivations is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Finland, there are 27 courts of first instance with general jurisdiction (legal entities), and 11 specialised courts of first instance (legal entities) including 1 commercial court, 1 labour court, 8 administrative courts and 1 insurance and social welfare court. There are 6 courts of appeal and the Supreme Court.

Finland is divided into a number of judicial districts, each with a District Court (käräjäoikeus). The districts vary greatly in size, both in terms of population and of area. A District Court is made up of a Chief Judge (laamanni) and a number of other professional judges (käräjätuomari). In civil cases, the proceedings start with the pre-trial phase of the procedure, after which the case is adjourned to the main hearing. The case also can be resolved already in the course of the partially written and partially oral pre-trial procedure.

The second instance in an ordinary case is the Court of Appeal (hovioikeus). All decisions by the District Courts may be appealed to the Court of Appeal. The parties have a right to refer both questions of fact and questions of law. In the Courts of Appeal, the cases are heard by three judges.

The third and final instance is the Supreme Court (korkein oikeus), which has its seat in Helsinki. Its most important task is to establish precedents, thus giving guidelines to the lower courts on the application of the law. The Supreme Court hears both civil and criminal appeals, but cases are admitted only under certain conditions. The Supreme Court may grant a leave to appeal in cases in which a precedent is necessary for the correct application of the law, a serious error has been committed in the proceedings before a lower court or another special reason exists in law.

Administrative jurisdiction: A general right of administrative appeal exists in Finland. This right can only be restricted by a specific legislative provision to that effect. The administrative courts hear appeals of private individuals and corporate bodies against the acts of the authorities. In certain cases, the State and municipal authorities also have the right of appeal. An appeal is usually first heard by a regional Administrative Court (hallinto-oikeus). The administrative courts hear tax, municipal, construction, social welfare, health care and alien cases as well as other administrative cases. In certain of these, the appeal must be preceded by a complaint to a separate lower appellate body. The Supreme Administrative Court (korkein hallinto-oikeus) finally decides the legality of the acts of the authorities. The bulk of its case-load consists of appeals against the decisions of the Administrative Courts.

SPECIAL COURTS:

The Market Court (markkinaoikeus) hears i.a. disputes regarding public acquisition, competition between firms and improper marketing. Depending on the nature of the case, the rulings of the Market Court are open to appeal before the Supreme Administrative Court or the Supreme Court.

The Labour Court (työtuomioistuin) hears disputes relating to collective agreements on employment relationships and on civil service relationships. Its decisions are not subject to appeal. Disputes relating to individual employment relationships are heard by the general courts and the individual civil service relationships by the administrative courts.

The Insurance Court (vakuutusoiikeus) considers certain cases falling within the field of social insurance, e.g. occupational accident insurance and pensions. Such cases are usually first heard by an appellate board, whose decisions are then subject to appeal to the Insurance Court. In certain cases related to accident insurance, the decisions of the Insurance Court are open to appeal before the Supreme Court, subject to leave by the Supreme Court.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

There is a system to evaluate regularly the activity of each court: there are annual negotiations between all courts and the Ministry of Justice. These negotiations are part of the method called "Management by results". Through these negotiations and the method, the Ministry of Justice allocates budget funds to the Courts of Law. The main performance indicators at the level of the court system are: length of proceedings (timeframes), closed cases, pending cases and backlogs, productivity of judges and court staff. Performance targets are set at the level of the court, the main targets of the courts are related to the length of proceedings (the hearing of a case in court without undue delay) and the number of closed cases. Otherwise, there are quality standards for the judicial system as a whole. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time does exist for civil and administrative law cases and another system does exist to monitor waiting time during court procedures (the computer based case management systems provide information about duration of procedures in every single case as necessary. In practice the courts control themselves and the control is based on the sum-ups of the performance in a month or in another period).

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Finland	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

- Concerning enforcement: A new act on execution (the Execution Code (705/2007)) entered into force on 1 January 2008. The most essential reforms pertain to the organisation of the enforcement agents and to the limitation period of debts. The next reform is the development of the structure of the network of the district enforcement offices. The number of the district enforcement offices will remain the same (22) but the change will mean a reduction of the number of the service bureaus from 178 to 62.
- Concerning the courts: in the beginning of 2010, the network of the District Courts changed, meaning a reduction of the number of courts from 51 to 27. In the foreseeable future, the next reform is the development of the structure of the Court of Appeal network and the Administrative Court network.

- Concerning reforms regarding civil or administrative laws: Administrative Judicial Procedure Act will be reformed.
- Concerning mediation and other ADR: from the beginning of 2011, an experiment in a new kind of mediation procedure in child custody cases has been carried out in four District Courts. In this experiment, a psychologist or a social worker assists the judge in the mediation process. The experiment will continue until the end of 2012.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Finland is 243,066,350 € (neither public prosecution nor legal aid budget is included). This corresponds to 45.2 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is 0.24% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Finland has 18.0 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 86.6 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 129.1 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 35.2, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 2.0, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 first instance incoming other than criminal cases per 100 inhabitants is 7.2, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of first instance incoming litigious civil and commercial cases per 100 inhabitants is 0.2, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Finland is 97.5 days, which corresponds to 0.39 times the EU27 average Disposition Time and 0.66 times the EU27 median Disposition Time. The situation is worsening compared to the 57.5 days of 2008 and to the 49.5 days of 2006. The Clearance Rate in 2010 is 100.6%, which means that the pending cases are slightly decreasing and the situation is stable.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 258.6 days, which corresponds to 0.91 times the EU27 average Disposition Time and 1.20 times the EU27 median Disposition Time. The situation is worsening compared to the 230.2 days of 2008 and to the 216.0 days of 2006. The Clearance Rate in 2010 is 93.2%, which means that the pending cases are increasing. The number of resolved cases should be increased to stabilize the situation.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean⁸⁴.

		Finland			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	3	16	4.0	5	31	4.9
Starting business		3	14*	1.0	6	14	5.2
Licences		3.4	32*	301	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate⁸⁵.

		Finland			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		0.9	4.0	89.1	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second

⁸⁴ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

⁸⁵ See the methodological note for more details on this assessment.

one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Finland	45.2	0.24%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Finland is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Finland	18.0	86.6	129.1	35.2	2.0
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of professional judges and administrative personnel are in line with the EU27 mean. The number of judge-like agents in the court system per 100,000 inhabitants is above the EU27 mean while the number of lawyers per 100,000 inhabitants is below it.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Finland	7.2	0.2

EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

While the number of other than criminal cases per 100 inhabitants is in line with the EU27 mean, the number of litigious civil and commercial cases is much lower.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
Finland	49.5	57.5	97.5	100.62%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases is good, below half that of the EU27 mean and the Clearance Rate is about 100%, which means that the situation is stable and the system is capable of dealing with incoming cases.

	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
First instance courts				
Finland	216.0	230.2	258.6	93.24%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases is adequate, below that of the EU27 mean. At the same time, Disposition Time has been increasing progressively since 2006 and the Clearance Rate is below 95% which means that the situation is deteriorating as the number of incoming cases is increasing more rapidly than that of the resolved cases.

The efficiency of the system as far as the main categories is between adequate and good.

Other strengths: Comprehensive system for the evaluation of courts efficiency and negotiation of the budget allocation.

Summary proceedings for undisputed claims also supported electronically.

Other shortcomings: ICT infrastructure is adequate, especially as communication between courts and parties is concerned, also due to the procedural simplification to support it.

7. RECOMMENDATIONS

Business-friendliness:

No recommendation.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Finland, the court system is performing well, but the litigious civil and commercial cases situation should be monitored.

Additional recommendations:

The effects of the consistent reduction in the number of courts should be monitored and the results shared as they may provide useful information not just to the Finland but also to other member States planning or implementing similar reforms.

ANNEX: COUNTRY-STATISTICS

First instance

Finland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	90,636	5,089	36,957	252	15,742	NA	28,636	3,947
	2008	93,279	5,625	45,927	314	14,780	NAP	23,239	3,454
	2010	107120	6431	75952	350	NAP	NAP	19863	4524
Incoming (number of cases)	2006	750936	9,200	188,984	1,032	508,116	NA	35,083	8,521
	2008	642751	9,703	268,554	1,038	327,020	NAP	28,369	8,067
	2010	389479	10845	337125	1055	NAP	NAP	31397	9057
Resolved (number of cases)	2006	741,361	9,072	183,361	951	505,667	NA	33,574	8,736
	2008	635,813	9,399	255,592	1,014	329,182	NAP	32,931	8725
	2010	391908	10112	340973	1055	NAP	NAP	31043	8725
Pending 31 Dec. (number of cases)	2006	100,597	5,368	42,858	339	18,149	NA	30,145	3,738
	2008	100,217	5,929	58,889	338	12,618	NAP	18,677	3,766
	2010	104691	7164	72104	350	NAP	NAP	20217	4856

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	99%	99%	97%	92%	100%	NA	96%	103%
CR	2008	99%	97%	95%	98%	101%	NA	116%	108%
CR	2010	101%	93%	101%	100%	NA	NA	99%	96%

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	50	216	85	130	13	NA	328	156
DT (Days)	2008	58	230	84	122	14	NA	207	158
DT (Days)	2010	98	259	77	121	NA	NA	238	203

Second instance

Finland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	2,697	2,441	151	77	NA	NA	NA	28
	2008	1,889	1,638	321	67	NA	NAP	NA	40
	2010	1873	1344	321	72	NAP	NAP	NAP	136
Incoming (number of cases)	2006	3666	2,749	612	256	NA	NA	NA	49
	2008	3918	2,790	747	248	NA	NAP	NA	133
	2010	3838	2045	1175	246	NAP	NAP	NAP	372
Resolved (number of cases)	2006	3,976	3,047	619	257	NA	NA	NA	53
	2008	3,890	2,802	713	239	NA	NAP	NA	136
	2010	3880	2102	1161	244	NAP	NAP	NAP	373
Pending 31 Dec. (number of cases)	2006	2,387	2,143	144	76	NA	NA	NA	24
	2008	1,917	1,626	178	76	NA	NAP	NA	37
	2010	1831	1287	335	74	NAP	NAP	NAP	135

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	108%	111%	101%	100%	NA	NA	NA	108%
CR	2008	99%	100%	95%	96%	NA	NA	NA	102%
CR	2010	101%	103%	99%	99%	NA	NA	NA	100%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	219	257	85	108	NA	NA	NA	165
DT (Days)	2008	180	212	91	116	NA	NA	NA	99
DT (Days)	2010	172	223	105	111	NA	NA	NA	132

Highest instance

Finland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	4,031	441	225	NA	NA	NA	3,095	270
	2008	3,562	369	203	NA	NA	NAP	2,874	116
	2010	NA	NA	NA	NA	NAP	NAP	3788	NA
Incoming (number of cases)	2006	5465	1,010	274	NA	NA	NA	3,793	388
	2008	5999	985	274	NA	NA	NAP	4,298	442
	2010	NA	NA	NA	NA	NAP	NAP	4587	NA
Resolved (number of cases)	2006	5,991	1,124	324	NA	NA	NA	4,006	537
	2008	5,399	987	280	NA	NA	NAP	3,734	398
	2010	5729	1072	285	60	NAP	NAP	4202	110
Pending 31 Dec. (number of cases)	2006	3,490	324	175	NA	NA	NA	2,866	122
	2008	4,162	367	197	NA	NA	NAP	3,438	160
	2010	NA	NA	NA	NA	NAP	NAP	4173	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	110%	111%	118%	NA	NA	NA	106%	138%
CR	2008	90%	100%	102%	NA	NA	NA	87%	90%
CR	2010	NA	NA	NA	NA	NA	NA	92%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	213	105	197	NA	NA	NA	261	83
DT (Days)	2008	281	136	257	NA	NA	NA	336	147
DT (Days)	2010	NA	NA	NA	NA	NA	NA	362	NA



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

FRANCE

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Report prepared for
the European Commission (Directorate General Justice)

9. FRANCE

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	France	EU27 Mean	France	EU27 Mean
Number of procedures	8	5	0 (0%)	1 (27%)
Time (days)	58	31	0 (0%)	9 (26%)
Cost (% of property value)	6.1	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	NA	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	France	EU27 Mean	France	EU27 Mean
Number of procedures	5	6	0.5 (10%)	1 (16%)
Time (days)	3	14	1 (33%)	2 (17%)
Cost (% of per capita GNI)	0.9	5.2	0.0 (1%)	0.8 (24%)
% of procedures possible by Internet	100	83	100	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	France	EU27 Mean
Time (years)	1.9	1.9
Cost (% of estate)	9.0	10.5
Recovery rate (%)	45.8	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	63365	51060
Number of firms	2925124	5005882
Ratio	2.2	1.0

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	France	EU27 Mean
Number	4.8	5.1
Time (days)	32	39
Cost (€)	248	309

The OECD reports an index of 2 which places France in the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary⁸⁶ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget ⁸⁷	Budget in €	Budget in €/Population	% of general government expenditure ⁸⁸
TOTAL annual approved budget allocated to the functioning of all courts	3,574,350,963	55.0	0.33%
Annual public budget allocated to (gross) salaries	2,174,257,350	33.4	0.20%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	48,085,112	0.7	0.00%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	475,409,713	7.3	0.04%
Annual public budget allocated to court buildings (maintenance, operating costs)	273,692,554	4.2	0.02%
Annual public budget allocated to investments in new (court) buildings	157,210,031	2.4	0.01%
Annual public budget allocated to training and education	72,585,033	1.1	0.01%
Other	373,111,170	5.7	0.03%

The overall budget of the justice system is 7,517,535,561 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, the Council of the judiciary, judicial protection of juveniles, functioning of the Ministry of Justice and access to justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	6,945	36,382 ⁸⁹	51,758	785	9,147	3,237
Number / population *100,000	10.7	55.9	79.6	1.2	14.1	5.0
Number / State + Local annual expenditure in Billions	6.3	33.2	47.2	0.7	8.3	3.0

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

⁸⁶ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

⁸⁷ The figures include the public prosecution budget.

⁸⁸ General government expenditure is based on 2010 Eurostat data.

⁸⁹ Includes lay judges.

There are 6,945 professional judges sitting in ordinary and administrative courts, including 4,850 at first instance, 1760 at second instance and 335 at highest instance. Furthermore, there are 578 professional judges sitting in courts on an occasional basis. In addition to professional judges, in France there are 28,859 non-professional judges performing various judicial functions.

Non-judge staff

Of the 20,616 non-judge staff units of personnel who are working in ordinary and administrative courts, for 18,189 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 1,500 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Finally, there are 927 technical staff and other 489 units between judge assistants and people with seasonal contracts. In France, there is no Rechtspfleger or a similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff working in courts is 1 to 3.0.

Other actors of the non-criminal justice system

Lawyers: there are 785 EU lawyers, established on the basis of Lawyers Directive 98/5 (149 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC) and 636 EU lawyers who have gained admission to the host member State under Art. 10 of Directive 98/5/EC). In civil and administrative cases, lawyers have a monopoly on legal representation, although derogations are provided for by specific law dispositions and regulations. This number does not include legal advisors.

Notaries: they are private professionals under the authority of the Minister of Justice (Ministère de la Justice). The services they provide include the certification of authenticity of legal deeds and certificates, and legal advice.

Bailiffs acting as **enforcement agents:** the bailiffs are public officers practicing a regulated private profession under the control of the public authority. The bailiff alone is entitled to execute court decisions and notify acts. It also has competence in areas as diverse as amicable collection of debts, aid in the drafting of private deeds, legal advice, administration of buildings, public auctions.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available.

Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non-criminal cases in 2010/ (judges and administrative personnel)
330	63	40

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been

solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting case management and tracking of cases, ICT can support judges' and court registrars' activities at individual level and inter-organisational communication and one or two way communication with professional and non-professional court users. Within the first category, France 2010 data shows that computer facilities for supporting judges' and court registrars' activities such as Word processing, electronic data-base of case-law, e-mail and Internet connection are available in 100% of the courts and electronic files in more than 50%. As to the electronic communication between courts and their institutional environment, the possibility to follow up on a case on-line and access to court electronic registers is available in less than 50% of the courts, and e-filing is possible in less than 10% of courts. In coordination with the Ministry of Justice, the Bar Association has developed an infrastructure for the exchange of data and documents with the courts of ordinary jurisdiction (e-Barreau),⁹⁰ while a system for e-filing has been developed and is in the process of being deployed in the administrative jurisdiction (Telerecours⁹¹).

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):⁹²

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
France	4.0	4.0	2.3	3.4
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

⁹⁰ For more information, see Velicogna et al. (2011).

⁹¹ For more information, see Velicogna et al. (2013).

⁹² ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

France	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	246	262	36	471
	DT 2008	264	286	20	396
	DT 2010	256	279	36	338
Second instance	DT 2006	360	358	NA	383
	DT 2008	370	369	NA	386
	DT 2010	361	359	NA	379
Highest instance	DT 2006	312	329	NA	365
	DT 2008	341	369	NA	290
	DT 2010	317	342	NA	267

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2011	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

France	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	98.9%	98.4%	99.7%	106.7%
	Second	96.3%	95.7%	NA	101.4%
	Highest	100.2%	97.6%	NA	106.1%

France	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	1592010	1347826	9931	173246
	Second	258680	229849	NA	28831
	Highest	25887	18603	NA	7284

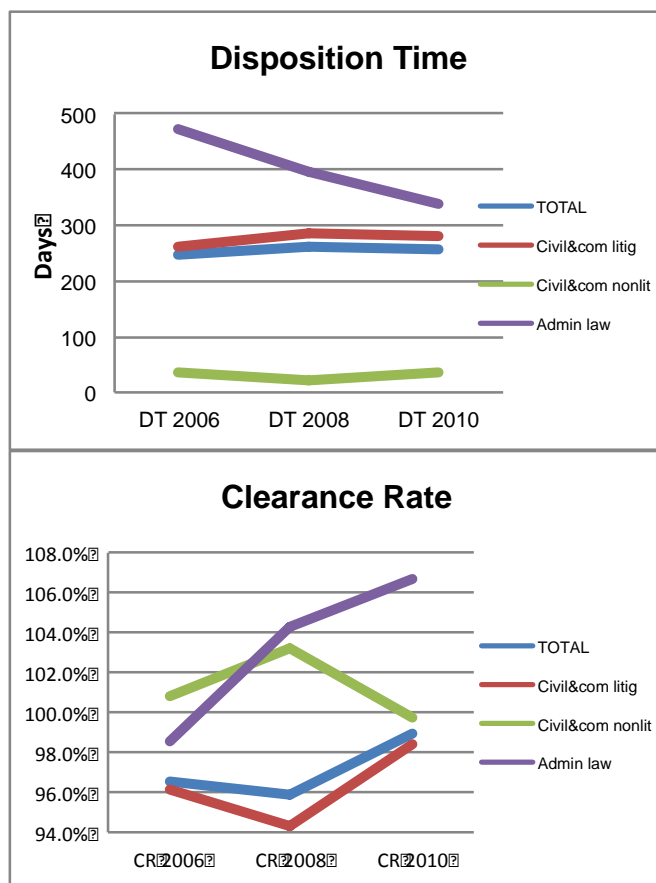
A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

Between 2006 and 2010, the **total** number of incoming other than criminal cases increases by an average of 1.3% per year, from 2,182,342 in 2006 to 2,228,746 in 2008 to 2,294,650 in 2010, while the number of resolved cases increases by an average of 1.9% per year, from 2,107,976 in 2006 to 2,136,181 in 2008 to 2,269,210 in 2010. While the improvement in the resolved/incoming cases is indeed a positive trend, the Clearance Rate is still below 100% and this results in an overall increase of pending cases. At the same time, the Disposition Time in the period 2006-2010, show an overall stable situation, increasing by an average of 1.1% per year, from 246 days in 2006, to 264 days in 2008 (18 days more than 2006), and down to 256 days in 2010 (10 days more than 2006).

At the same time, the number of incoming **litigious civil and commercial** cases increases by an average of 1.5% per year, from 1,688,367 in 2006 to 1,744,350 in 2008 to 1,793,299 in 2010, while the number of resolved cases increases by an average of 2.1% per year, from 1,624,484 in 2006 to 1,645,161 in 2008 to 1,764,255 in 2010. Data on first instance courts Disposition Time in the period 2006-2010 shows a stable situation for litigious civil and commercial cases, with a slight increase from 262 days in 2006 to 279 days in 2010.

The number of incoming **non-litigious civil and commercial** cases decreases by an average of 5.7% per year, from 127,721 in 2006 to 101,837 in 2008 to 100,863 in 2010, while the number of resolved cases decreases by an average of 6.0% per year, from 128,722 in 2006 to 105,099 in 2008 to 100,609 in 2010.

First instance **administrative** court cases Disposition Time shows a consistent improvement between 2006 and 2010, decreasing by an average of 7.9% per year, from 471 days in 2006 to 338 days in 2010. This trend was related to a consistent increase in the resolved cases vis-à-vis a less rapid increase of the number of incoming cases. The graphics below show in more detail Disposition Time trends and Clearance Rates in first instance courts in the period 2006-2010.



Compared to first instance Disposition Time values for the same years,⁹³ all Disposition Time of

Q11: Number, average duration and costs of non-criminal⁹⁴ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

second and highest instance courts values available for 2006, 2008 and 2010 are in line.

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	705896	660255	NA	NA	93.5%	NAP
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NAP
Payment Order	NA	NA	697989	NA	NA	NA	NA

⁹³ Comparison with first instance DT has been done according to the following formulas:

For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27 FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27 SecondInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27 FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27 HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

⁹⁴ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	1328459	1894162	1864864	1357757	266	98.5%	NA
litigious	1318782	1793299	1764255	1347826	279	98.4%	NA
non-litigious	9677	100863	100609	9931	36	99.7%	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for France (UIHJ data).

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	1328459	1894162	1864864	1357757	266	98.5%	NA
litigious	1318782	1793299	1764255	1347826	279	98.4%	NA
non-litigious	9677	100863	100609	9931	36	99.7%	NA

In France, a private mediator worked on civil and commercial cases, administrative cases and employment cases, while family law cases (ex. divorce) are dealt with by a court annexed mediation or by a private mediator. A possibility to receive legal aid for mediation procedure does exist.

The Directive 2008/52/EC of the European Parliament and Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters has been only recently transposed by ordinance n°2011-1540 of 16 November 2011.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	18815	199469	190428	27856	53	95.5%
2008	45014	206246	202110	49150	89	98.0%
2010	53194	225111	217298	61007	102	96.5%

In the period 2006-2010, both incoming cases and resolved cases increase with a Clearance Rate always below 100%. As a result, the number of pending cases increases consistently, from 18,815 at the beginning of 2006 to 61,007 at the end of 2010, and the Disposition Time almost doubles, increasing from 53 days in 2006 to 102 days in 2010 (an average of 17.7% per year).

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for France (UIHJ data).

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for France (UIHJ data).

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is subject to a fixed fee for service by a bailiff of "EUR 50. This fee must be paid when documents are transmitted except where the applicant is receiving legal aid".⁹⁵

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	123 316	123 249	NA	NA	NA	61,9
2008	NA	130 378	125 940	NA	NA	NA	61

⁹⁵ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_fr_en.jsp?countrySession=2&, visited 04/06/2012.

judiciaire national). There are no specific quality standards for the judicial system as a whole but there are some quality standards for the public administration (Charte Marianne), which apply to it. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge, though quantitative data is collected in relation to the various categories of judges (*siège non spécialisés, instruction, enfants*, etc.) in order to establish average levels of performance which, after being 'locally declined' through a yearly managerial dialogue, must be achieved by judges and administrative personnel of the court units. A system to monitor backlogs and cases that are not processed within a reasonable time and monitor waiting time during court procedures is in place.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
France	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

An on-going reform (in 2010) for the reduction in the number of ordinary courts and for a transfer of competences has been presented in section 1.1. Furthermore, to simplify access to justice to the citizens and to comply with the Directive of 12 December 2006 on services in the Internal Market (Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market [Official Journal L 376 of 27.12.2006]), three laws have been adopted:

- 1-Law No. 2010-1609 of 22 December 2010 on the execution of court decisions and the conditions of exercise of certain regulated professions and court experts allows mainly to strengthen the means of action of bailiffs, to generalise the obligation of continuous training as well as the practice of judicial professions under the means of payment by salary, to ensure freedom of trade unions and create an application for plea bargaining represented by lawyer called participatory.
- 2-Law No. 2011-94 of 25 January 2011 on the reform of the representation before the courts of appeal which aims to merge on 1 January 2012 the professions of lawyer and solicitor of the Courts of appeal.
- 3-Law No. 2011-331 of 28 March 2011 to modernise the judicial profession or legal profession and certain regulated professions giving mainly a probative strength to reinforce acts countersigned by a lawyer.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the calculated total annual approved budget allocated to all courts in France (as the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between

the sum of the two and the courts' budget which is 72%) is 2,573,532,693 € (neither public prosecution nor legal aid budget is included). This corresponds to 39.6 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The calculated total annual approved budget allocated to all courts is the 0.23% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, France has 10.7 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 55.9 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and *Rechtspfleger* for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 88.4 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 79.6, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 7.5, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 first instance incoming other than criminal cases per 100 inhabitants is 3.5, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of first instance incoming litigious civil and commercial cases per 100 inhabitants is 2.8, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the performance of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in France is 256.1 days, which corresponds to 1.03 times the EU27 average Disposition Time and 1.74 times the EU27 median Disposition Time. The situation is an improvement on the 263.5 days of 2008. At the same time, the situation in 2010 is worsening compared to the 245.5 days of 2006. The Clearance Rate in 2010 is 98.9%, which means that the pending cases are increasing slightly and the situation is stable.

As Disposition Time of litigious civil and commercial cases is concerned, in 2010 it is 278.8 days, which corresponds to 0.98 times the EU27 average Disposition Time and 1.29 times the EU27 median Disposition Time. The situation is an improvement on the 285.7 days of 2008. At the same time, the situation in 2010 is worsening compared to the 261.9 days of 2006. The Clearance Rate in 2010 is 98.4%, which means that the pending cases are increasing slightly and the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean⁹⁸.

		France			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	8	58	6.1	5	31	4.9
Starting business		5	3*	0.9	6	14	5.2
Licences		4.8	32*	248	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate⁹⁹.

		France			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		1.9	9.0	45.8	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Calculated courts budget in Euro per inhabitant	Calculated courts budget as % of public expenditure
France	39.6	0.23%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

⁹⁸ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

⁹⁹ See the methodological note for more details on this assessment.

The calculated budget¹⁰⁰ allocated to all courts in France is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
France	10.7	55.9	88.4	79.6	7.5
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel and lawyers are in line with the EU27 mean.

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four category are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
France	3.5	2.8
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

While the number of other than criminal cases and the number of litigious civil and commercial cases per 100 inhabitants are in line with the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one

¹⁰⁰ As the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%.

standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
France	245.5	263.5	256.1	98.89%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in 2010 in first instance courts is above the EU27 mean and the Clearance Rate is about 100%, which means that the situation is stable. While 2010 Disposition Time is an improvement compared to 2008 Disposition Time, 2006 Disposition Time was better, being also below the EU27 2010 average.

	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
First instance courts				
France	261.9	285.7	278.8	98.38%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts is adequate in 2010, being below the EU27 mean. The situation is an improvement on 2008 data but not to that of 2006. 2010 Clearance Rate is around 100% which means that the situation is stable and the system is capable of dealing with incoming cases.

The efficiency of the system as far as the main categories are concerned is between adequate and almost adequate.

Other strengths: ICT infrastructure for the communication between courts and parties is being developed also in collaboration with the Bar Association,

Other shortcomings: no data on mediation; enforcement procedures Disposition Time has increased consistently between 2006 and 2010.

7. RECOMMENDATIONS

Business-friendliness:

The procedure for registering property should be simplified by removing 2 or 3 steps. The time taken by such procedure should be also reduced with 20 days as an objective. Finally, increasing the

recovery rate from insolvency and bankruptcy procedures by 35 points to reach 80% should be considered as an objective.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in France, the court system is performing between adequate and almost adequate, the situation should be monitored and improved in specific sectors.

Additional recommendations:

Data collection on specific topics such as employment dismissal cases should be improved, and it should be introduced as regards arbitration and mediation.

The effects of the consistent reduction in the number of courts should be monitored and the results should be shared as they may provide useful information not only for France but also for other member States planning or implementing similar reforms.

ANNEX: COUNTRY-STATISTICS

First instance

France	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	1,343,612	1,101,709	13,541	18,815	NA	NA	209,547	NA
	2008	1,449,626	1,188,517	9,102	45,014	NAP	NAP	206,993	NAP
	2010	1566570	1318782	9677	53194	NAP	NAP	184917	NAP
Incoming (number of cases)	2006	2182342	1,688,367	127,721	199,469	NA	NA	166,785	NA
	2008	2228746	1,744,350	101,837	206,246	NAP	NAP	176,313	NAP
	2010	2294650	1793299	100863	225111	NAP	NAP	175377	NAP
Resolved (number of cases)	2006	2,107,976	1,624,484	128,722	190,428	NA	NA	164,342	NA
	2008	2,136,181	1,645,161	105,099	202,110	NAP	NAP	183,811	NAP
	2010	2269210	1764255	100609	217298	NAP	NAP	187048	NAP
Pending 31 Dec. (number of cases)	2006	1,417,978	1,165,592	12,540	27,856	NA	NA	211,990	NA
	2008	1,542,191	1,287,706	5,840	49,150	NAP	NAP	199,495	NAP
	2010	1592010	1347826	9931	61007	NAP	NAP	173246	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	97%	96%	101%	95%	NA	NA	99%	NA
CR	2008	96%	94%	103%	98%	NA	NA	104%	NA
CR	2010	99%	98%	100%	97%	NA	NA	107%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	246	262	36	53	NA	NA	471	NA
DT (Days)	2008	264	286	20	89	NA	NA	396	NA
DT (Days)	2010	256	279	36	102	NA	NA	338	NA

Second instance

France	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	266,737	234,777	NA	NA	NA	NA	31,960	NA
	2008	246,641	218650	NA	NA	NA	NA	28,258	NA
	2010	248666	219459	NA	NA	NAP	NA	29207	NAP
Incoming (number of cases)	2006	228976	207,893	NA	NA	NA	NA	21,083	NA
	2008	246118	218,316	NA	NA	NA	NA	27,802	NA
	2010	271375	243967	NA	NA	NAP	NA	27408	NAP
Resolved (number of cases)	2006	249,504	223,614	NA	NA	NA	NA	25,890	NA
	2008	244,647	217,412	NA	NA	NA	NA	27,235	NA
	2010	261361	233577	NA	NA	NAP	NA	27784	NAP
Pending 31 Dec. (number of cases)	2006	246,209	219,056	NA	NA	NA	NA	27,153	NA
	2008	248,112	219,554	NA	NA	NA	NA	28,825	NA
	2010	258680	229849	NA	NA	NAP	NA	28831	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	109%	108%	NA	NA	NA	NA	123%	NA
CR	2008	99%	100%	NA	NA	NA	NA	98%	NA
CR	2010	96%	96%	NA	NA	NA	NA	101%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	360	358	NA	NA	NA	NA	383	NA
DT (Days)	2008	370	369	NA	NA	NA	NA	386	NA
DT (Days)	2010	361	359	NA	NA	NA	NA	379	NA

Highest instance

France	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	33,171	23,677	NA	NA	NA	NA	9,494	NA
	2008	26,811	18,642	NA	NA	NA	NA	8,169	NA
	2010	25957	18105	NA	NA	NA	NA	7852	NA
Incoming (number of cases)	2006	29305	19,034	NA	NA	NA	NA	10,271	NA
	2008	29182	18,932	NA	NA	NA	NA	10,250	NA
	2010	29727	20353	NA	NA	NA	NA	9374	NA
Resolved (number of cases)	2006	33,659	22,461	NA	NA	NA	NA	11,198	NA
	2008	28,954	18,684	NA	NA	NA	NA	10,270	NA
	2010	29797	19855	NA	NA	NA	NA	9942	NA
Pending 31 Dec. (number of cases)	2006	28,817	20,250	NA	NA	NA	NA	11,198	NA
	2008	27,039	18,890	NA	NA	NA	NA	8,149	NA
	2010	25887	18603	NA	NA	NA	NA	7284	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	115%	118%	NA	NA	NA	NA	109%	NA
CR	2008	99%	99%	NA	NA	NA	NA	100%	NA
CR	2010	100%	98%	NA	NA	NA	NA	106%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	312	329	NA	NA	NA	NA	365	NA
DT (Days)	2008	341	369	NA	NA	NA	NA	290	NA
DT (Days)	2010	317	342	NA	NA	NA	NA	267	NA

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

GERMANY

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

10. GERMANY

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Germany	EU27 Mean	Germany	EU27 Mean
Number of procedures	5	5	NA (NA)	1 (27%)
Time (days)	57	31	NA (NA)	9 (26%)
Cost (% of property value)	5.1	4.9	NA (NA)	1.1 (21%)
% of procedures possible by Internet	NA	43	NA	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Germany	EU27 Mean	Germany	EU27 Mean
Number of procedures	9	6	NA (NA)	1 (16%)
Time (days)	11	14	NA (NA)	2 (17%)
Cost (% of per capita GNI)	4.3	5.2	NA (NA)	0.8 (24%)
% of procedures possible by Internet	NA	83	NA	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Germany	EU27 Mean
Time (years)	1.2	1.9
Cost (% of estate)	8.0	10.5
Recovery rate (%)	53.8	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	31998	32100
Number of firms	3591000	3606742
Ratio	0.9	0.9

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Germany	EU27 Mean
Number	3.4	5.1
Time (days)	58	39
Cost (€)	453	309

The OECD reports an index of 4 which places Germany above the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹⁰¹ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget ¹⁰²	Budget in €	Budget in €/Population	% of general government expenditure ¹⁰³
TOTAL annual approved budget allocated to the functioning of all courts	7,814,320,714	95.6	0.66%
Annual public budget allocated to (gross) salaries	4,758,375,002	58.2	0.40%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	161,650,654	2.0	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	1,712,187,748	20.9	0.14%
Annual public budget allocated to court buildings (maintenance, operating costs)	315,904,319	3.9	0.03%
Annual public budget allocated to investments in new (court) buildings	65,625,004	0.8	0.01%
Annual public budget allocated to training and education	56,770,990	0.7	0.005%
Other	718,656,197	8.8	0.06%

The overall budget of the justice system is 13,320,680,442 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, the Council of the judiciary, judicial protection of juveniles, functioning of the Ministry of Justice, refugees and asylum seekers and other.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	19,832	126,399 ¹⁰⁴	155,679	351	7,934	5,862
Number / population *100,000	24.3	154.6	190.4	0.4	9.7	7.2
Number / State + Local annual expenditure in Billions	16.7	106.6	131.3	0.3	6.7	4.9

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

¹⁰¹ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

¹⁰² For some landers the value includes the expenditure of the public prosecution offices, as it is not separately recorded.

¹⁰³ General government expenditure is based on 2010 Eurostat data.

¹⁰⁴ Includes lay judges.

Judges

There are 19831,61¹⁰⁵ professional judges sitting in ordinary and administrative courts, including 14861,13 at first instance, 4055,58 at second instance and 914,90 at highest instance. The number of professional judges includes the number of part-time occasional judges. In addition to professional judges, in Germany there are 98,107 non-professional judges performing various judicial functions.

Non-judge staff

Of the 53,649 non-judge staff units of personnel who are working in ordinary and administrative courts, for 29,143 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 7,477 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Finally, there are 1,280 technical staff and another 7,285 units between judge assistants and people with seasonal contracts. In Germany, there are 8,460 Rechtspfleger or similar bodies with judicial or quasi-judicial tasks having an autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff working in courts is 1 to 2.7.

Other actors of the non-criminal justice system

Lawyers: there are 351 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC). In civil and administrative cases, they have no monopoly on legal representation. This number does not include legal advisors.

Notaries: they are public agents. The services they provide include the certification of authenticity of legal deeds and certificates. The duties of a notary are to carry out authentication of all kinds, as well as to certify signatures, initials and duplicates. The authentications, which are in particular provided for real estate transactions and certain legal transactions under company law, are inseparably linked to an impartial legal advice for the parties by the authenticating notary. Further, notaries also carry out other tasks in the field of preventive administration of justice.

Bailiffs acting as **enforcement agents:** they are bailiffs working in a public institution. The bailiff is responsible for coercive enforcement of monetary claims in moveable property, as well as for compulsory enforcement because of other acts or omissions, namely the surrender of moveables and real estate. The enforcement court (a department of the Local Court) is responsible for the coercive enforcement of monetary claims in movable property insofar as these are rights against third-party debtors. Coercive enforcement takes place in this case by means of pledging and transfer for seizure instead of payment. The land registry office (a department of the Local Court) is responsible for the coercive enforcement of monetary claims on immovable property if an equitable mortgage is to be entered. Compulsory enforcement of monetary claims on immovable property by forced auctioning or forced administration is carried out by the enforcement court (a department of the Local Court). As a rule, senior judicial officers act at the enforcement court and at the land registry office. These are not enforcement agents in the strict sense of the word, but special court bodies which carry out special court tasks as the "second pillar of the third power" in addition to judges, largely in the field of "voluntary" jurisdiction. Moreover, they carry out a large number of other judiciary activities, such as in the field of court payment demand proceedings, legal aid, setting of costs, execution of penalties, etc., and in proceedings for which the enforcement court has jurisdiction.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available.

¹⁰⁵ The information relates to job shares. There are no absolute figures for the number of persons. The information on the job shares counts a judge working full-time as 1. A judge working part-time is counted as a fraction of 1 which corresponds to the proportion of his/her working hours to full-time (e.g. 0.5 for a judge working half the usual number of hours). The information from personnel deployment has been used as a basis re 1 and 2. Personnel deployment is ascertained according to a complex calculation scheme as an annual average of the actual personnel deployed. The total staff from the two-year statistics on judges as per 31 December 2010 has been used as a basis re 3.

Incoming first instance non criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non - criminal cases in 2010/ (judges and administrative personnel)
760	119	88

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management in more than 50% of courts, while there are electronic tools for tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Germany 2010 data shows that computer facilities for supporting judges' and court registrars' activities such as Word processing, electronic data-base of case-law, e-mail, Internet connection are available in 100% of courts, while electronic files are available in less than 10% of courts. As to the electronic communication between courts and their institutional environment, the possibility to follow-up on a case online or to access the court electronic registers is available in 100% of the courts; e-filing is available in less than 50% of the courts; the possibility to use a service for the electronic processing of small claims or undisputed debt recovery is not available.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹⁰⁶

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.

¹⁰⁶ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Germany	4.0	3.7	2.4	3.3
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Germany	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	44	125	53	369
	DT 2008	NA	NA	NA	NA
	DT 2010	131	184	NA	373
Second instance	DT 2006	105	84	NA	335
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	437
Highest instance	DT 2006	268	659	NA	215
	DT 2008	NA	NA	NA	NA
	DT 2010	240	NA	NA	191

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Germany	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	Excluded	100%	NA	96%
	Second	NA	NA	NA	98%
	Highest	105%	NA	NA	104%

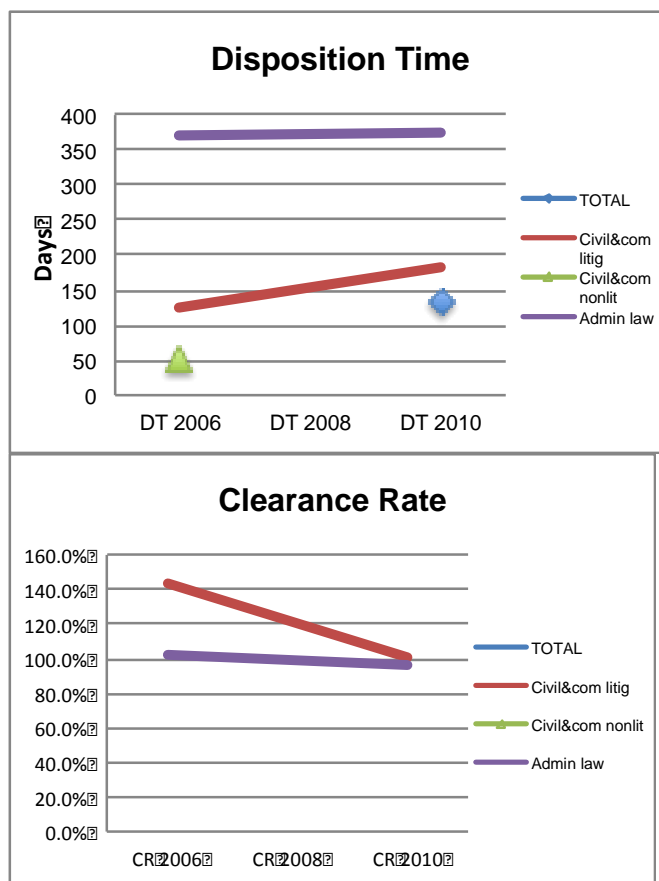
Germany	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	3660699	798865	NA	683715
	Second	NA	NA	NA	49194
	Highest	8866	NA	NA	3938

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

The **total** numbers of other than criminal incoming cases available for 2006 and 2010 are not comparable as they include different categories of cases. 2010 Clearance Rate has been excluded as the numbers of incoming and resolved cases (15,069,925 and 10175609 respectively) are not consistent with the numbers of pending cases at the beginning and at the end of 2010 (respectively 3,248,143 and 3,660,699 cases). Further checking of the data is required.

In the 2006-2010, the number of incoming **litigious civil and commercial** cases increases by an average of 9.4% per year, from 1,104,828 in 2006 to 1,581,762 in 2010, while the number of resolved cases decreases by an average of 0.02% per year, from 1,588,198 in 2006 to 1,586,654 in 2010. At the same time, Disposition Time shows a negative trend, increasing by an average of 10.1% per year, from 125 days in 2006 to 184 days in 2010.

The number of incoming **administrative** cases increases by an average of 4.5% per year, from 580,922 in 2006 to 693,913 in 2010, while the number of resolved cases increases by an average of 3.1% per year, from 591,468 in 2006 to 668,664 in 2010. Disposition Time in administrative cases shows a stable situation, increasing by an average of 0.3% per year, from 369 days in 2006 to 373 days in 2010.



Compared to first instance Disposition Time values for the same years,¹⁰⁷ Disposition Times of highest instance courts for the total number of other than criminal and for civil and commercial litigious cases in 2006 are quite high (268 and 659 days respectively). All other second and highest instance Disposition Time values available are in line with first instance values for the same years.

Q11: Number, average duration and costs of non-criminal¹⁰⁸ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1	Incoming cases	Resolved cases	Pending cases on 31	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
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¹⁰⁷ Comparison with first instance DT has been done according to the following formulas:

For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27 FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27 SecondInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27 FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27 HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

¹⁰⁸ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

	Jan.'10 (number of cases)	(number of cases)	(number of cases)	Dec'10 (number of cases)			
Small claim	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Small claim (not Payment Order)	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Payment Order	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	803757	1581762	1586654	798865	184	100.3%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Germany (UIHJ data).

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
1. Civil mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
2. Family mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
3. Administrative mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
4. Employment dismissal mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	803757	1581762	1586654	798865	184	100.3%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

In Germany, a court annexed mediation, a private mediator, a public authority (other than the court) or a judge worked on civil and commercial cases, employment cases and family law cases (ex. divorce). A court annexed mediation, a private mediator or a judge worked on administrative cases. A possibility to receive legal aid for mediation procedure does exist. All forms of out-of-court conflict resolution are possible as a matter of principle.

Concerning the arbitrational jurisdiction, arbitrational conflict resolution is possible in civil and commercial cases and also in family cases.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	3601586	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA
2010	NA	NA	3183807	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Germany (UIHJ data).

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Germany (UIHJ data).

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for Germany (UIHJ data).

According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is subject to a fee: the costs referred to in Article 11(2) may under normal circumstances be incurred up to €20.50. They will be calculated in accordance with the laws on court expenses depending on the type of service requested.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	231 588	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA	NA
2010	NA	NA	172015	NA	NA	NA	3.77

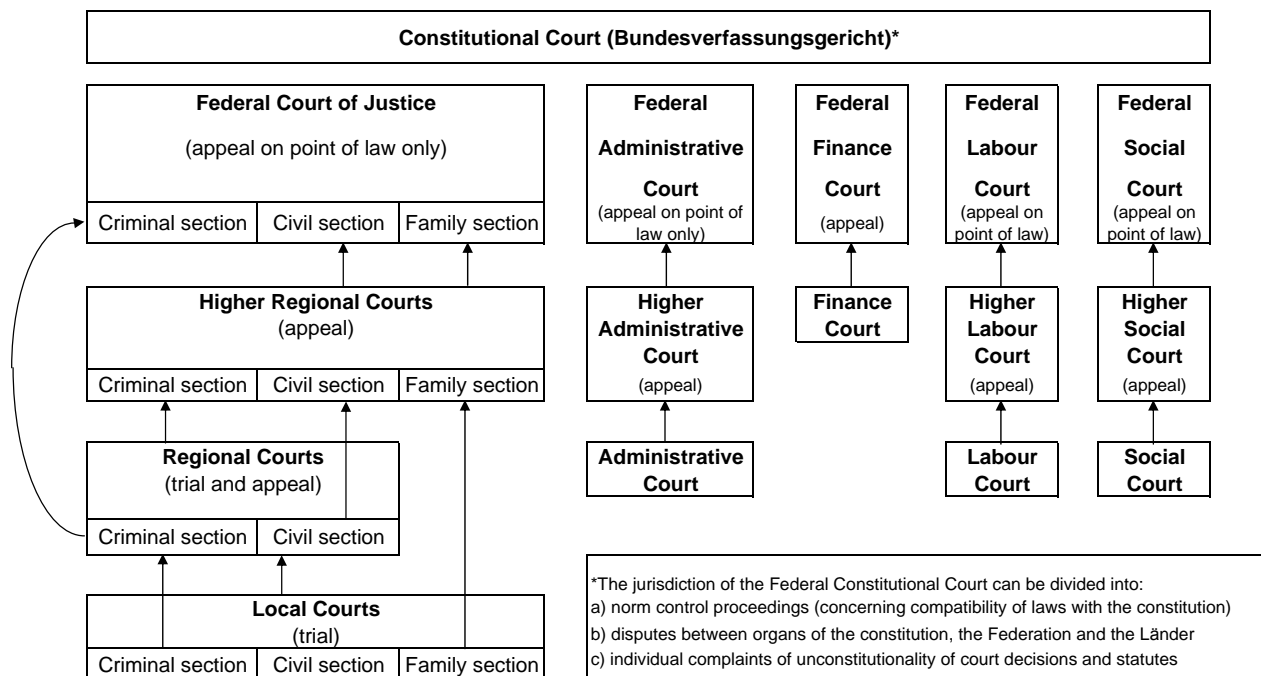
In 2010, the average length of proceedings in employment dismissal cases is of 96 days in 1st instance courts, 4.5 days in 2nd instance courts, and for 3rd instance courts is not available. The average length of proceedings is not available. The % of pending cases for more than 3 years is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Germany, there are 777 courts of general jurisdiction at first instance and 256 specialised courts at first instance including 119 labour courts, 51 administrative courts, 68 insurance and / or social welfare courts and 18 other specialised 1st instance courts. Depending on the disputed value, commercial cases are dealt with by the Local or Regional Courts, on application in a chamber established at the Regional Court for commercial cases. There are no separate commercial courts neither independent rent courts, execution courts or courts for insurance cases. Depending on the caseload, special panels of judges are established for this purpose at the Local and Regional Courts. Family cases are dealt with at first instance in special departments of the Local Courts. The Federal Armed Forces do not have any military courts of their own; its members are subject to civil jurisdiction.

Court System in Germany



The appeal system in criminal, civil and family cases is complicated:

Criminal cases: Appeals from local courts to regional courts, further appeal to higher regional courts
Appeals from regional courts (trials, first instance) only to federal court of justice

Civil cases: Appeals from local courts to regional courts, no further appeal
Appeals from regional courts (first instance) to higher regional courts, further appeal to federal court of justice

Family cases: Appeals from local courts to higher regional courts, further appeal to federal court of justice
(Appeals to federal court of justice are subject to further conditions)

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs. The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), closed cases and pending cases and backlogs. No performance targets are set at the level of the court. There are specific quality standards for the judicial system as a whole. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. There is no system to monitor backlogs and cases that are not processed within a reasonable time and monitor waiting time during court procedures.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Germany	Yes	Yes	No	Yes	Yes	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

Concerning the courts: discussion on combining the specialist jurisdictions that are governed by public law, discussion on strengthening electronic legal transactions with the courts.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the calculated total annual approved budget allocated to all courts in Germany (as the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%) is 5,626,310,914 € (neither public prosecution nor legal aid budget is included). This corresponds to 68.8 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The calculated total annual approved budget allocated to all courts is the 0.47% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to a EU27 median of 0.40%.

As regards human resources, Germany has 24.3 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 154.6 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 209.9 persons (judges and non-judge staff) working in the court system per

100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 190.4, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 7.9, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases, but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 first instance incoming other than criminal cases per 100 inhabitants is 18.4, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 1.9, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Germany is 131.3 days, which corresponds to 0.53 times the EU27 average Disposition Time and 0.89 times the EU27 median Disposition Time. At the same time, the situation in 2010 is worsening compared to the 44.1 days of 2006. As previously stated, 2010 Clearance Rate has been excluded as the numbers of incoming and resolved cases (15,069,925 and 10175609 respectively) are not consistent with the numbers of pending cases at the beginning and at the end of 2010 (respectively 3,248,143 and 3,660,699 cases). Further checking of the data is required.

As Disposition Time for the litigious civil and commercial cases is concerned, in 2010 it is 183.8 days, which corresponds to 0.65 times the EU27 average Disposition Time and 0.85 times the EU27 median Disposition Time. The situation in 2010 is worsening compared to the 125.2 days of 2006. The Clearance Rate in 2010 is 100.3%, which means that the pending cases are increasing slightly but the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean¹⁰⁹.

	Germany	EU27
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¹⁰⁹ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

	Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	5	57	5.1	5	31	4.9
Starting business	9	11*	4.3	6	14	5.2
Licences	3.4	58*	453	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate¹¹⁰.

	Germany			EU27		
	Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy	1.2	8.0	53.8	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Calculated courts budget in Euro per inhabitant	Calculated courts budget as % of public expenditure
Germany	68.8	0.47%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The calculated budget¹¹¹ allocated to all courts in Germany is in line with the EU27 mean if considered as a percentage of public expenditure, while it is above it in Euro per inhabitant.

Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
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¹¹⁰ See the methodological note for more details on this assessment.

¹¹¹ As the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%.

	100,000 inhabitants				
Germany	24.3	154.6	209.9	190.4	7.9
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of full-time professional judges working in courts, administrative personnel and lawyers per 100,000 inhabitants and the lawyers/professional judges ratio are in line with the EU27 mean, while the broader judge-like agents category and the overall number of people working in courts are higher than the EU27 mean also due to the presence of lay judges.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Germany	18.4	1.9
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As the court system caseload is concerned, the number of other than criminal cases, the number of litigious civil and commercial cases per 100 inhabitants are in line with the EU27 mean

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Germany	44.1	NA	131.3	Excluded
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is adequate, below the EU27 mean, while and the Clearance Rate calculated from the incoming and resolved data provided is very low, around 68% which would suggest that the system is not capable of resolving enough the incoming cases. At the same time, data on pending cases at the beginning and at the end of 2010 (respectively 3,248,143 and 3,660,699 cases) suggest further checking of the data is required.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Germany	125.2	NA	183.8	100.31%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is adequate, below the EU27 mean and the Clearance Rate is about 100% which means that the situation is stable and the system is capable of dealing with incoming cases.

The efficiency of the system as far as the main categories are concerned is adequate, though Clearance Rate for other than criminal cases is negative.

Other shortcomings: There is no adequate data about relevant areas such as mediation, enforcement procedures, dismissal cases and first instance civil and commercial cases; there are no systems to monitor backlogs and cases that are not processed within a reasonable time or to monitor waiting time during the court procedures.

Lack of standardisation in Landers judicial data collection.

7. RECOMMENDATIONS

Business-friendliness:

This period of 20 days for registering property should be viewed as an objective. The number of procedures necessary to start a business should be simplified by removing 2 or 3 steps. Regarding the licences system, the time required to obtain all the licences necessary to operate should be sharply reduced as well as the cost of such licences.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Germany, the court system is performing adequately as Disposition Time is concerned, Clearance Rate data should be verified for other than criminal cases. However data is not available for all categories of cases.

Additional recommendations:

The possibility to improve monitoring and data collection in all relevant areas should be considered. In particular, Landers standard data collection should be improved, also looking at comparability with other EU countries.

ICT systems for communication and information exchange between the courts and their environment should be further developed.

ANNEX: COUNTRY-STATISTICS

First instance

Germany	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	2,725,286	615,454	1,500,708	NA	NA	NA	609,124	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	3248143	803757	NA	NA	NA	NA	658466	1785920
Incoming (number of cases)	2006	3617025	1,104,828	1,931,275	NA	NA	NA	580,922	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	15069925	1581762	NA	NA	NA	NA	693913	1587688
Resolved (number of cases)	2006	22,250,438	1,588,198	10,614,058	3,601,586	5,122,001	733,127	591,468	NA
	2008	NA	NA	NA	NA	NA	NA	NA	1489900
	2010	10175609	1586654	NA	3183807	5832858	580801	668664	1489900
Pending 31 Dec. (number of cases)	2006	2,687,295	544,751	1,543,969	NA	NA	NA	598,575	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	3660699	798865	NA	NA	NA	NA	683715	1883708

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	615% (excluded)	144%	550%	NA	NA	NA	102%	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	68% (excluded)	100%	NA	NA	NA	NA	96%	94%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	44	125	53	NA	NA	NA	369	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	131	184	NA	NA	NA	NA	373	461

Second instance

Germany	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan.	2006	51,391	31,461	NA	NA	NA	NA	51,391	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	48524	21427
Incoming	2006	146,989 ¹¹²	89,719	NA	NA	NA	NA	57,270	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	41727	52077
Resolved	2006	180,113	129,551	85,420	NA	NA	NA	56,651	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	202419	31167	79430	NA	NA	NA	41057	50765
Pending 31 Dec.	2006	52,011	29,671	NA	NA	NA	NA	52,011	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	49194	22739

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	123%	144%	NA	NA	NA	NA	99%	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	NA	NA	NA	NA	NA	NA	98%	97%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	105	84	NA	NA	NA	NA	335	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	437	163

¹¹² Calculated adding Civil&com litig and Admin law as value provided was Admin law

Highest instance

Germany	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	9,481	4,868	NA	NA	NA	NA	4,613	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	9560	NA	NA	NA	NA	NA	4240	1673
Incoming (number of cases)	2006	14113	5,906	NA	NA	NA	NA	8,207	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	12812	NA	NA	NA	NA	NA	7232	2401
Resolved (number of cases)	2006	13,607	2,895	2,650	NA	NA	NA	8,062	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	13506	784	2608	NA	NA	NA	7534	2580
Pending 31 Dec. (number of cases)	2006	9,987	5,229	NA	NA	NA	NA	4,758	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	8866	NA	NA	NA	NA	NA	3938	1494

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	96%	49%	NA	NA	NA	NA	98%	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	105%	NA	NA	NA	NA	NA	104%	107%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	268	659	NA	NA	NA	NA	215	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	240	NA	NA	NA	NA	NA	191	211



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

GREECE

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

11. GREECE

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Greece	EU27 Mean	Greece	EU27 Mean
Number of procedures	11	5	NA (NA)	1 (27%)
Time (days)	13	31	NA (NA)	9 (26%)
Cost (% of property value)	15.2	4.9	NA (NA)	1.1 (21%)
% of procedures possible by Internet	NA	43	NA	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Greece	EU27 Mean	Greece	EU27 Mean
Number of procedures	10	6	NA (NA)	1 (16%)
Time (days)	5	14	NA (NA)	2 (17%)
Cost (% of per capita GNI)	37.2	5.2	NA (NA)	0.8 (24%)
% of procedures possible by Internet	NA	83	NA	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Greece	EU27 Mean
Time (years)	2.0	1.9
Cost (% of estate)	9.0	10.5
Recovery rate (%) ¹¹³	41.8	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	810	355
Number of firms	795550	507143
Ratio	0.1	0.1

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Greece	EU27 Mean
Number	7.6	5.1
Time (days)	50	39
Cost (€)	404	309

The OECD reports an index of 2 which places Greece in the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

¹¹³ The National Correspondent of Greece for the UIHJ reports a range of 20-25%.

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹¹⁴ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget ¹¹⁵	Budget in €	Budget in €/Population	% of general government expenditure ¹¹⁶
TOTAL annual approved budget allocated to the functioning of all courts	630,648,372	55.8	0.55%
Annual public budget allocated to (gross) salaries	597,275,000	52.8	0.52%
Annual public budget allocated to computerisation (equipment, investments, maintenance) ¹¹⁷	4,239,461	0.4	0.00%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	3,400,000	0.3	0.00%
Annual public budget allocated to court buildings (maintenance, operating costs)	10,416,000	0.9	0.01%
Annual public budget allocated to investments in new (court) buildings	9,379,911	0.8	0.01%
Annual public budget allocated to training and education ¹¹⁸	5,938,000	0.5	0.01%
Other	0	0	0.00%

The overall budget of the justice system is 714,721,911 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, the Council of the judiciary, judicial protection of juveniles and functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	3,313	3,313	41,794	184	NA	2,110

¹¹⁴ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

¹¹⁵ These figures include the budget of the public prosecution services.

¹¹⁶ General government expenditure is based on 2010 Eurostat data.

¹¹⁷ This value includes the regular budget of Ministry of Justice, Transparency & Human Rights allocated to computerization, 330,000 € and two other sources of funding allocated to computerization, the Public Investment Program, 1,784,660 €, and the Court Buildings' Fund-CBF: 2,124,801 €.

¹¹⁸ This value includes: 1,900,000 € of subsidy from the regular budget of the Ministry of Justice, Transparency and Human Rights to the National School of Judges, a public law legal entity supervised by our Ministry, that is responsible for the initial as well as the in-service training of judges; 200.000 from the regular budget of our Ministry concerning the costs of educational leaves of judicial officers; 3,838,000 € from the Public Investments Programme of our Ministry to finance the National School of Judges.

Number / population *100,000	29.3	29.3	369.5	1.6	NA	18.7
Number / State + Local annual expenditure in Billions	29.0	29.0	366.3	1.6	NA	18.5

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

There are 2,041 professional judges sitting in courts, including 1,179 at first instance, 592 at second instance and 270 at highest instance. There are also 159 judicial officials of the Council of State and 551 Magistrates. Finally, there are 562 president of first, second and highest instance courts.

Non-judge staff

There are 6,760 non-judge staff working in the courts for judges. In Greece, there is not a Rechtspfleger or a similar body with judicial or quasi-judicial tasks with autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 3.3.

Other actors of the non-criminal justice system

Lawyers: in civil and administrative cases, they have a monopoly on legal representation, but the litigant may appear in person in cases of competence of Magistrates' Courts or interim protective measures in special procedures.

Notaries: they are public officials directly appointed by the Minister of Justice. They certify documents and have duties in the field of legal advice but only in reference to the notarial deeds that they draft. They are responsible for drafting and keeping documents (public deeds) that constitute or prove transactions and statements of the interested parties whenever the drafting of these public documents is required by law or when the parties wish to give them the authority of a public deed. The notaries issue copies of the above documents as well as copies of the attached documents. They certify the authenticity of the signature that is set before them for any document attached to their instrument. They also sign private documents to provide them with a firm date, for which a deed is drafted. The notaries can issue enforcement orders of their deeds. The main areas of law that notaries deal with are Real Property Law, Family Law, Succession Law, Corporate Law.

Bailiffs acting as **enforcement agents:** they are public officers but their salary is not provided by the State. Their tasks include the service of judicial documents and the enforcement of judgments in civil and commercial cases.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available.

Incoming first instance non- criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non- professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases in 2010/ (judges and administrative personnel)
167	167	55

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

Use of electronic tools for case-management and tracking of cases is very limited.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Greece 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection, are available in less than 50% of courts. As to the electronic communication between courts and their institutional environment, the possibility of access to the court electronic registers is available in less than 10% of courts; the possibility to follow up on a case online, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are not available.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹¹⁹

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Greece	2.0	1.7	0.4	1.3
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

¹¹⁹ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Greece	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	NA	NA	NA	NA
	DT 2008	487	NA	NA	NA
	DT 2010	510	190	NA	2003
Second instance	DT 2006	NA	NA	NA	NA
	DT 2008	505	NA	NA	NA
	DT 2010	520	298	NA	1048
Highest instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Greece	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	79.12%	78.89%	NA	80.19%
	Second	74.24%	78.49%	NA	65.76%
	Highest	NA	NA	NA	NA

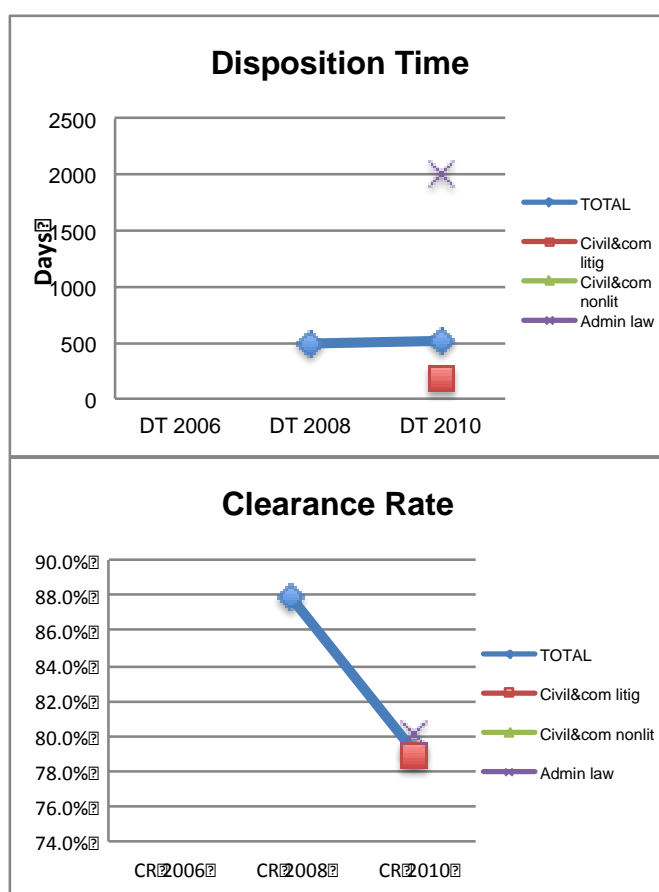
Greece	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	609306	187360	NA	421946
	Second	69009	27898	NA	41111
	Highest	NA	NA	NA	NA

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

Data on 2006 of the efficiency of first instance courts is not available for Greece. Only, data on **total** number of other than criminal cases is available and, given the great differences in values, should be treated with caution as the definition used to collect them may not be consistent.

According to the data between 2008 and 2010, the number of incoming other than criminal cases increase by an average of 88.1% per year, from 156,000 in 2008 to 551,700 in 2010. The number of resolved cases increases by an average of 78.5% per year, from 137,000 in 2008 to 436,484 in 2010. Data on first instance courts Disposition Time for the total number of other than criminal cases, in the period 2008-2010, shows a stable situation increasing by an average of 2.3% per year, from 487 days in 2008 to 510 days in 2010. The Clearance Rate contributes to a negative picture, decreasing from 88% in 2008 to 79% in 2010.

In 2010, the Disposition Time for the **litigious civil and commercial cases** is 190, though the Clearance Rate is 79%. The Disposition Time of first instance **administrative** court cases in 2010 is 2003 days, and the Clearance Rate is 80%.



Compared to first instance Disposition Time values for the same years,¹²⁰ all Disposition Time of second instance courts values available for 2006, 2008 and 2010 are in line. Disposition time is not available for highest instance courts.

¹²⁰ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{(\text{FirstInstance DT CaseCategory X, Year Y})}{(\text{MeanDT EU27FirstInstanceCaseCategory X, 2010})} - \frac{(\text{SecondInstance DT CaseCategory X, Year Y})}{(\text{MeanDT EU27SecondInstanceCaseCategory X, 2010})}$$

For highest instances:

Q11: Number, average duration and costs of non-criminal¹²¹ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Small claim (not Payment Order)	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Payment Order	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	159031	455831	359607	187360	190	78.9%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

Source UIHJ: the average duration of a procedure of recognition of a judgment under the Brussels I Regulation (Regulation (EC) 44/2001 of 22 December 2000) is not available, while its average cost is between 400 and 500 euros. On the other hand, the average duration of an exequatur procedure of a judgment in civil and commercial matter coming from a non-EU country is 6 months, and its average cost is between 400 and 500 euros. If a decision taken in civil and commercial matter from another State of European Union has been recognised in Greece under the Brussels I Regulation, and in absence of voluntary compliance by the debtor, the average percentage of decisions fully enforced is between 45 and 50 %. The average percentage of decisions whose implementation has not been possible due to the failure of the debtor is 50 %.

The causes that prevented the enforcement of the court decision are (from the least frequent to the most frequent cause): the debtor has left no forwarding address or has no longer a known address; it was impossible to obtain information about the debtors' assets, including their location; enforcement procedures in place were not successful for various reasons; the debtor is insolvent; the debtor is subject to bankruptcy proceedings or an equivalent procedure.

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

¹²¹ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
1. Civil mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
2. Family mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
3. Administrative mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
4. Employment dismissal mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	159031	455831	359607	187360	190	78.9%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

In Greece, the legal system provides for mediation procedures and in particular for court annexed mediation in civil and commercial cases. And there is no possibility to receive legal aid for mediation procedures.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

Enforcement proceedings in domestic law: the average length of enforcement proceedings in civil and commercial matter is 10 months. There is a maximum time to enforce a court decision in this matter:

the judgment must be enforced within 12 months or the Writ must be renewed, this can be extended for 20 years. The enforcement agent in charge of enforcing a court decision can grant the debtor installments for the payment of the debt but only with the consent of the creditor. In this case, there is no time restriction, it depends on the debtor capability (UIHJ data).

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

When a decision in civil and commercial matter must be brought into effect, failing voluntary compliance by the debtor, the average percentage of cases paid in full following enforcement is less than 10% (about 67% before the crisis) and the percentage of partially paid cases is less than 5-7% (almost 25-27% before the crisis) (UIHJ data).

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

In 2010, in accordance with Regulation (EC) No 1393/2007 of 13 November 2007, between 2500 and 3000 judicial and extrajudicial documents from another member State of the European Union are served in Greece, with an average length of 2 or 3 weeks. Between 3500 and 4000 documents were transmitted in 2010 by Greece to be served in another EU member State in accordance with Regulation (EC) No 1393/2007. According to the European Judicial Atlas in Civil Matters, no cost of service of documents under to Regulation 1392/2007 is imposed 122 (UIHJ data).

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA	NA

In 2010, the average length of the employment dismissal procedure is not available. The % of pending cases for more than 3 years is not available.

¹²² http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_el_en.jsp

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

According to the Greek Constitution, there are three categories of courts: civil courts, penal courts and administrative courts. The supreme court of the civil and penal justice is the Court of Cassation, while the supreme court of the administrative justice is the Council of State. Hence, Greek judges belong to one of these two branches. Civil cases are judged at first instance by the District Courts or the Courts of First Instance, according to the estimated value of the disputed matter. At second instance, by the Courts of First Instance or the Courts of Appeal, again according to the estimated value of the disputed matter. At third instance, cases are judged by the Court of Cassation. Cases concerning employment dismissal follow a special procedure and are dealt with at first instance by the Department of Labour Disputes of the Single-Member First Instance Court and on appeal by the competent Court of Appeal.

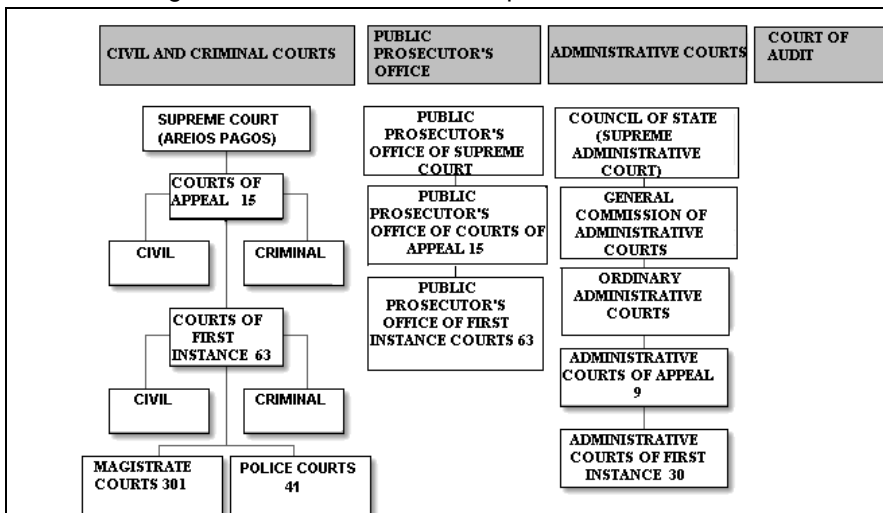


Figure 2: Organisation chart of courts in Greece: <http://www.coe.int/t/dghl/cooperation/CEPEJ/profiles/CourSystemsGreece.pdf>

COURT STATISTICS AND CASE-FLOW MANAGEMENT

In Greece, there is a system of regular inspection. It is mainly constituted by judges serving in the Supreme Court. Furthermore, there is a Council of Inspection of civil and penal courts. Concerning court activities, the 4 main performance indicators at the level of the court system are: length of proceedings, pending cases and backlogs, productivity of judges and court staff and quality of judicial work, and organisational quality of the courts. No performance are set at the level of the courts. The main targets applied at the courts are: rationalisation and reorganisation of the courts; mediation and alternative dispute resolution with a view to relieving the courts from a large number of cases; e-justice (the diffusion of an electronic registration and monitoring system of individual cases in all courts of the country) and reduction of pending cases. Concerning the standards determined for the whole judicial system, inspectors draft a detailed and a fully justified report on every judge functioning in their district, in which the following elements are evaluated: a) moral conduct and character, b) scientific knowledge, c) perception and sound judgment, d) diligence, hard work and professional (qualitative and quantitative) performance, e) the capacity in the award of justice, in phrasing decisions and in organising the procedure and f) the judge's conduct in general and particularly during the hearing of a case (art. 6 par.2 & 3 of Law 3514/2006). The existing evaluation system for the judiciary adopts a scale that ranges from 1 (excellent) to 6 (inadequate).

Concerning the judges, quantitative performance targets (for instance a number of cases to be addressed in a month) are defined for each judge. There is no system to monitor waiting time during procedure, but there is a system to monitor backlogs and cases that are not processed within a reasonable timeframe in civil law cases. Otherwise, there is a system to evaluate the overall functioning of courts on the basis of an annual inspection of the courts' evaluators.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			

Greece	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8
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The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

1. In execution of the memorandum on economic and financial cooperation signed by the Greek Government and the International Monetary Fund, the European Bank and European Partners, Law 3845 was initially adopted (Government Gazette A 65/06.05.2010) in relation to "Measures for the implementation of the Greek economy support mechanism by Eurozone member States and the International Monetary Fund". Under this law, the Greek Government committed, among others, to deregulate all regulated professions within 2011, by reducing or eliminating fixed minimum tariffs and removing other restrictions, including, but not limited to:

- for the legal profession in general, to remove restrictions on minimum tariffs, on the ban on advertising, to remove territorial restrictions on where the lawyers can practice in Greece,

- for the notary profession in particular, to eliminate minimum tariffs, to increase the fixed number of notaries or even to abolish the fixed number, to remove territorial restrictions on where the notaries can practice, and to remove the ban on advertising.

- The passage of the Bill of Law on regulated professions has signaled the completion of the first round of implementation of the commitments undertaken by the Greek Government, as these were laid down in the Stability and Growth Pact.

- The law preparatory procedure had led to the elaboration of a bill of law, which, as far as the notaries were concerned, amended the Article 40 of the Notaries' Code by introducing regulations, which were equally enforceable under the existing Code and also by granting the Notaries for the first time the theoretical opportunity to freely negotiate the tariffs, where such tariffs exceeded a certain amount.

- The final version of the bill of law, which was brought before the Parliamentary Standing Committee for Financial Affairs, included an addition establishing the notaries' ability to engage in commercial communications, which will eventually be either passed or rejected by means of a Presidential Decree.

- The Ministry of Finance added a new regulation to the bill, whereby the number of notaries was subject to a 10-20% increase by derogation to the provisions of Article 17 of the Notaries Code.

The final negotiations and discussion are still pending until this day (29.11.2011).

2. With law 3068/2002 on the compliance of the public administration with judicial decisions, as amended by art. 20 of the law 3301/2004, compulsory enforcement against the public sector is provided for, as well as a financial penalty against an authority to the benefit of the individual for non-enforcement or inefficient enforcement of judicial decisions.

3. Regarding the functioning of justice, the current debate is about:

- Reform regarding acceleration of judicial proceedings in criminal, civil and administrative matters (under preparation)
- Budgetary restrictions due to financial crisis in Greece
- Merge of Magistrate's Courts
- Small increase of the number of judges
- Development of the strategy on ways of alternative dispute resolution
- Use of technology in courts
- Functioning of new prison facilities

- Liberalisation of legal professions such as lawyers
- New judicial appellate courts and prosecution services

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the calculated total annual approved budget allocated to all courts in Greece (as the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%) is 454,066,828 € (neither public prosecution nor legal aid budget is included). This corresponds to 40.1 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The calculated total annual approved budget allocated to all courts is the 0.40% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Greece has 29.3 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 29.3 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 89.1 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 369.5, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 12.6, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 first instance incoming other than criminal cases per 100 inhabitants is 4.9, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 4.0, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and the Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). 2010 The Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Greece is 509.5 days, which corresponds to 2.04 times the EU27 average Disposition Time and 3.46 times the EU27 median Disposition Time. The situation is worsening compared to the 487.2 days of 2008. The

Clearance Rate in 2010 is 79.1%, which means that the pending cases are increasing and the number of resolved cases should be increased.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 190.2 days, which corresponds to 0.67 times the EU27 average Disposition Time and 0.88 times the EU27 median Disposition Time. The Clearance Rate in 2010 is 78.9%, which means that the pending cases are increasing and the number of resolved cases should be increased.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean¹²³.

		Greece			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	11	13	15.2	5	31	4.9
Starting business		10	5*	37.2	6	14	5.2
Licences		7.6	50*	404	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate¹²⁴.

		Greece			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		2.0	9.0	41.8	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

¹²³ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

¹²⁴ See the methodological note for more details on this assessment.

Colour code

	Calculated budget in Euro per inhabitant	Calculated courts budget as % of public expenditure
Greece	40.1	0.40%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The calculated budget¹²⁵ allocated to all courts in Greece is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Greece	29.3	29.3	89.1	369.5	12.6
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges and administrative personnel units per 100,000 inhabitants are in line with the EU27 mean while the number of lawyers is above it. The lawyers/professional judges ratio is also in line with the EU27 mean.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Greece	4.9	4.0

¹²⁵ As the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%.

EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, the number of other than criminal cases, the number of litigious civil and commercial cases per 100 inhabitants are in line with the EU27 mean

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
Greece	NA	487.2	509.5	79.12%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is not adequate, being above the EU27 mean and Clearance Rate is negative (consistently below 90%), which means that the system is capable of dealing with incoming cases and the situation is worsening.

	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
First instance courts				
Greece	NA	NA	190.2	78.89%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is adequate, below the EU27 mean but Clearance Rate is consistently below 90% which means that the system is capable of dealing with incoming cases and the situation is worsening.

The efficiency of the system as far as the main categories are concerned is not adequate.

Other Shortcomings: data collection on court efficiency indicators and on mediation is not adequate. ICT infrastructure is not adequate, especially as regards the communication between courts and parties.

7. RECOMMENDATIONS

Business-friendliness:

Greece should simplify the procedure for registering property. 2 or 3 steps should be removed. Greece should also sharply reduce the cost necessary to register property with a cost of 5% of the GNI as an objective. Regarding the start of a business, the procedure should be simplified with 2 or 3 steps being removed. The cost necessary to start a business should also be sharply reduced with a cost of 5% of the GNI as an objective. The recovery rate from insolvency and bankruptcy procedures should be increased by about 40 points to reach 80%. Finally, the licences system should be simplified. A reduction of the time required to obtain all the licences necessary to operate should also be envisaged, as well as a decrease of the cost of such licences.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Greece, the judicial system efficiency is not adequate and actions should be taken to improve productivity.

Additional recommendations:

Data collection, monitoring and evaluating of the system should be strongly improved.

Data on ADR and mediation should be collected.

ICT infrastructure should be extended, especially with the development of tools for the communication between courts and parties. It could be useful to start from the development of ICT systems to support simplified procedures such as the payment orders and small claims in order to gain the experience needed to manage more complex e-services. In other EU national contexts (i.e. UK England and Wales, Slovenia etc.), the creation of a single national electronic jurisdiction for the management of such claims has resulted in reduced technological and organisational complexity and a more efficient use of resources.

ANNEX: COUNTRY-STATISTICS

First instance

Greece	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	163,856	NA	NA	NA	NA	NA	NA	NA
	2010	567685	159031	NA	NA	NA	NA	408654	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	156000	NA	NA	NA	NA	NA	NA	NA
	2010	551700	455831	NA	NA	NA	NA	95869	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	137,000	NA	NA	NA	1,093,500	NA	4,500	NA
	2010	436484	359607	NA	NA	NA	NA	76877	NA
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	182,856	NA	NA	NA	NA	NA	NA	NA
	2010	609306	187360	NA	NA	NA	NA	421946	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	88%	NA	NA	NA	NA	NA	NA	NA
CR	2010	79%	79%	NA	NA	NA	NA	80%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	487	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	510	190	NA	NA	NA	NA	2003	NA

Second instance

Greece	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	36,096	NA	NA	NA	NA	NA	NA	NA
	2010	64525	29935	NA	NA	NA	NA	34590	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	34900	NA	NA	NA	NA	NA	NA	NA
	2010	65305	43526	NA	NA	NA	NA	21779	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	29,800	NA	NA	NA	NA	NA	50	NA
	2010	48484	34162	NA	NA	NA	NA	14322	NA
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	41,196	NA	NA	NA	NA	NA	NA	NA
	2010	69009	27898	NA	NA	NA	NA	41111	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	85%	NA	NA	NA	NA	NA	NA	NA
CR	2010	74%	78%	NA	NA	NA	NA	66%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	505	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	520	298	NA	NA	NA	NA	1048	NA

Highest instance

Greece	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	NA	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

HUNGARY

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

12. HUNGARY

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Hungary	EU27 Mean	Hungary	EU27 Mean
Number of procedures	4	5	3 (75%)	1 (27%)
Time (days)	17	31	14 (82%)	9 (26%)
Cost (% of property value)	5.0	4.9	5.0 (100%)	1.1 (21%)
% of procedures possible by Internet	50	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Hungary	EU27 Mean	Hungary	EU27 Mean
Number of procedures	4	6	3 (75%)	1 (16%)
Time (days)	18	14	17 (94%)	2 (17%)
Cost (% of per capita GNI)	2.9	5.2	2.9 (100%)	0.8 (24%)
% of procedures possible by Internet	100	83	100	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	47293	47171	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Hungary	EU27 Mean
Time (years)	2.0	1.9
Cost (% of estate)	15.0	10.5
Recovery rate (%)	39.2	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	17700	17600
Number of firms	579821	NA
Ratio	3.1	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Hungary	EU27 Mean
Number	7.6	5.1
Time (days)	43	39
Cost (€)	185	309

The OECD reports an index of 0 which places Hungary below the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS' FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹²⁶ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ¹²⁷
TOTAL annual approved budget allocated to the functioning of all courts	259,501,133	26.0	0.54%
Annual public budget allocated to (gross) salaries	209,393,222	21.0	0.44%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	7,532,956	0.8	0.02%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid	16,030,255	1.6	0.03%
Annual public budget allocated to court buildings (maintenance, operating costs)	26,297,344	2.6	0.05%
Annual public budget allocated to investments in new (court) buildings	NA	NA	NA
Annual public budget allocated to training and education	247,356	0.02	0.001%
Other	NA	NA	NA

The overall budget of the justice system is 1,604,399,373 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, Council of the judiciary, functioning of the Ministry of Justice, refugees and asylum seekers services and compensation to crime victims.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	2,891	7,863 (3481 excluding lay judges)	12,099	71	315	183
Number / population *100,000	29.0	78.7 (34.9 excluding lay judges)	121.2	0.7	3.2	1.8
Number / State + Local annual expenditure in Billions	60.2	163.7 (72.5 excluding lay judges)	251.9	1.5	6.6	3.8

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

Judges

¹²⁶ Where possible, replies should separate data amongalong the main judicial sectors, such as civil, commercial, tax and labour law.

¹²⁷ General government expenditure is based on 2010 Eurostat data.

There are 2,891 professional judges sitting in ordinary and administrative courts, including 1,666 at first instance, 1666 at second instance and 89 at highest instance. In Hungary, there are no professional judges sitting in courts on an occasional basis. In addition to professional judges, in Hungary there are 4,382 non-professional judges, all are lay judges only in first instance.

Non-judge staff

Of the 7,713 non-judge staff units of personnel who are working in ordinary and administrative courts, for 3,413 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Otherwise, there are 3,710 units of technical staff.

In Hungary, there are 590 Rechtspfleger or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal. In cases delegated under the jurisdiction of courts of first instance, the court secretary (Rechtspfleger) shall have powers to act without a formal hearing, instead of a single judge or a presiding judge; the court secretary shall - furthermore - have powers to take the evidence in accordance with Subsection (2) of Section 202. In such cases, the provisions of this Act governing court proceedings shall apply to the court secretary. In some cases, the court secretary shall - unless otherwise prescribed by law - have an independent right of signature, and shall have the authority to take all measures and make all decisions - other than the judgment - that are delegated by law to the jurisdiction of the court or the presiding judge. The court secretary may not make a decision relating to provisional measures.

The ratio of professional judges sitting in courts to non-judge staff who are working in courts is 1 to 2.7.

Other actors of the non-criminal justice system

Lawyers: there are 71 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC). Lawyers have a monopoly of representation in civil cases before the appeal courts and the Supreme Court, but not before local and county courts. The parties to administrative proceedings can be represented by any person having the mandate of the parties.

Notaries: they are private professionals under the authority of public authorities. Notaries have duties in the framework of civil procedure, to certify the authenticity of legal deeds and certificates and other services including issuing order for payment, including European order, and keeping the following registers: 1) of mortgages imposed on movable property; 2) of civil partnerships; 3) of wills. Like the courts, they also give an impartial information to the parties about their rights and obligations.

Bailiffs acting as **enforcement agents:** the bailiffs practicing as private professionals under the authority of public authorities. They have a monopoly on the enforcement of court decisions and other titles in execution. They can also perform the service of documents, make findings, recover debt, provide legal advice and make voluntary or forced sales.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non-criminal cases in 2010/ (judges and administrative personnel)
236	87	46

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of

personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Hungary 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic database of case-law, electronic files, e-mail, Internet connection, are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility of access to the courts' electronic registers is available in 100% of courts; e-filing is available in more than 50% of courts; using a service for the electronic processing of undisputed debt recovery is available in less than 10% of courts; following up on a case online and using a service for the electronic processing of small claims are not available.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹²⁸

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Hungary	4.0	4.0	1.9	3.3
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

¹²⁸ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Hungary	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	78	177	33	137
	DT 2008	56	170	48	158
	DT 2010	79	160	5	202
Second instance	DT 2006	96	118	63	128
	DT 2008	92	101	76	75
	DT 2010	92	114	67	128
Highest instance	DT 2006	99	64	NA	217
	DT 2008	198	130	NA	343
	DT 2010	182	148	5	197

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Average number of cases per month where there were hearings: first instance court: 28101; tribunal as a first instance court: 5033; tribunal as a second instance court: 1279; regional court: 269.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Hungary	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
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CR 2010	First	107%	102%	115%	96%
	Second	100%	98%	100%	97%
	Highest	98%	98%	102%	95%

Hungary		TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	158142	89626	6611	7584
	Second	13293	7526	3630	251
	Highest	3134	1060	6	1025

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

Overall, in this period, the **total** number of incoming cases increases by an average of 3.0% per year, from 607,254 in 2006 to 1,184,162 in 2008, and to 682,727 in 2010, while the number of resolved cases increases by an average of 5.1% per year, from 601,006 in 2006 to 1,165,201 in 2008, and to 732,325 in 2010. Considering the whole period of 2006-2010, the Disposition Time increases by an average of 0.2% per year, although the 2008 data is not consistent with this trend as Disposition Time decreases from 78 days in 2006 to 56 days in 2008, and increases to 79 days in 2010.

At the same time, the number of incoming **litigious civil and commercial** cases increases by an average of 3.0% per year, from 178,338 in 2006 to 189,644 in 2008, and to 200,922 in 2010, while the number of resolved cases increases by an average of 3.3% per year, from 179,317 in 2006 to 191,002 in 2008, and to 204,275 in 2010. Disposition Time in litigious civil and commercial cases also shows a stable situation, decreasing by an average of 2.4% per year, from 177 days in 2006 to 170 days in 2008, and to 160 days in 2010.

The number of incoming **non-litigious civil and commercial** cases decreases by an average of 0.8% per year, from 413,159 in 2006 to 565,136 in 2008, and to 400,514 in 2010, while the number of resolved cases increases by an average of 3.3% per year, from 405,984 in 2006 to 549,952 in 2008, and to 461,650 in 2010. Disposition Time in non-litigious civil and commercial cases shows an overall positive trend, decreasing by an average of 36.7% per year, initially from 33 days in 2006 to 48 days in 2008, but then decreasing to 5 days in 2010.

The number of incoming **administrative** cases decreases by an average of 2.3% per year, from 15,757 in 2006 to 14,971 in 2008, and to 14,360 in 2010, while the number of resolved cases decreases by an average of 3.3% per year, from 15,705 in 2006 to 14,741 in 2008, and to 13,727 in 2010. In the same period, Disposition Time shows a negative trend, increasing by an average of 10.1% per year, from 137 days in 2006 to 158 days in 2008, and to 202 days in 2010.



Compared to first instance Disposition Time values for the same years,¹²⁹ Disposition Time of second instance courts for the civil and commercial non litigious cases is high in 2010 (67 days to the 5 days of first instance) while all other second instance Disposition Time values available are in line with first instance values for the same years. As highest instance is concerned, the total number of other than criminal cases Disposition Time values in 2008 and 2010 (198 and 182 days respectively) are quite high compared to the first instance ones, while the civil and commercial litigious cases Disposition Time in 2006 is comparatively low (64 days), and Disposition Time in 2006, 2008 and 2010 for administrative cases (217, 343 and 197 days respectively) is comparatively high. All other highest instance Disposition Time values available are in line with first instance values for the same years.

Q11: Number, average duration and costs of non-criminal¹³⁰ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

¹²⁹ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{(MeanDT EU27FirstInstanceCaseCategory X, 2010)}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{(MeanDT EU27SecondInstanceCaseCategory X, 2010)}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{(MeanDT EU27 FirstInstanceCaseCategory X, 2010)}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{(MeanDT EU27FirstInstanceCaseCategory X, 2010)}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{(MeanDT EU27HighestInstanceCaseCategory X, 2010)}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{(Mean DT EU27 FirstInstanceCaseCategory X, 2010)}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	312364	NA	NA	NA	NA	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	51460	311271	360804	1927	2	115.9%	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	150726	601436	665925	96237	53	110.7%	NA
litigious	92979	200922	204275	89626	160	101.7%	NA
non-litigious	57747	400514	461650	6611	5	115.3%	NA

For payment procedures, both e-filing and electronic payment of fees is allowed.

Furthermore, concerning the order for payment procedures, it has to be mentioned that from 1 June 2010, when the Code of Civil Procedure came into force, the vast majority of these cases are managed by the Hungarian notaries.

As regards small claims, during the normal court proceedings, different appeal rules and second instance procedural rules apply. In particular, such provisions limit the right to appeal in small claims cases (the Code of Civil Procedure defines the circumstances in which an appeal may be brought forward), and simplify the second instance proceeding.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

The average duration of a procedure of recognition of a judgment under the Brussels I Regulation (Regulation (EC) 44/2001 of 22 December 2000) is 6 months, while its average cost is 1% of the capital but maximum 1000 euros. On the other hand, the average duration of an exequatur procedure of a judgment in civil and commercial cases coming from a non-EU country is 24 months, and its average cost is 1% of the capital but maximum 1000 euros.

If a decision taken in civil and commercial case from another State of European Union has been recognised in Hungary under the Brussels I Regulation, and in absence of voluntary compliance by the debtor, the average percentage of decisions fully enforced is between 40 and 60 % and the average percentage of decisions partially enforced is 20 %. The average percentage of decisions whose implementation has not been possible due to the failure of the debtor is unknown.

The reasons that prevented the enforcement of a court decision are (from the least frequent to the most frequent cause): the debtor has left no forwarding address or has no longer a known address; it was impossible to obtain information about the debtor's assets, including their location; the debtor is subject of bankruptcy proceedings or an equivalent procedure; the debtor is insolvent (UIHJ data).

¹³⁰ For the purpose of this scoreboard, a "non"Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data amongalong these 4 types of litigation.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	150726	601436	665925	96237	53	110.7%	NA
litigious	92979	200922	204275	89626	160	101.7%	NA
non-litigious	57747	400514	461650	6611	5	115.3%	NA

Hungary's legal system provides for the better known types of alternative dispute resolution (ADR). Therefore, the parties can try to settle disputes via arbitration or mediation instead of going to a court.

Mediation: In Hungary, a court annexed mediation, a private mediator or a public authority (other than a court) worked on civil and commercial cases, family law cases (ex. divorce) and employment dismissal cases. There are 1185 accredited or registered mediators who practice judicial mediation in Hungary. There is a possibility to receive legal aid for mediation procedure. In mediation proceedings, the parties and the mediator are free to agree on the amounts of the fees and costs and who is to pay what; if the parties cannot agree on the latter, they pay them in equal proportions.

Under Act LV of 2002 on Mediation, the parties (physical persons, legal entities, business entities without legal personality, other organisations) to a civil dispute connected with their personal and pecuniary rights may, if they so agree and if the law does not limit their right of disposition, use a mediation procedure to seek resolution. They may initiate such a procedure by calling on the services of a mediator. The Act specifies the range of civil legal actions in which mediation is not possible and where its provisions cannot apply to mediation and conciliation proceedings governed by other acts, or to mediation in arbitration proceedings.

Under the Mediation Act, on termination of the mediation proceedings, the parties may bring their dispute to court, since agreements made in mediation proceedings are not officially enforceable.

If the parties participate in mediation after the first hearing and the agreement reached is ratified by the presiding judge, only half of the applicable duties are payable.

If the parties participate in mediation prior to the civil proceedings, only an amount of duty - reduced by the mediator's fee + VAT, but by not more than 50.000 HUF - must be paid, which cannot be less than 50% of the original amount of duty.

According to Directive 2008/52/EC, it must be possible to request that the content of a written agreement resulting from mediation be made enforceable. It is possible for parties to make the content of their agreement resulting from mediation enforceable. They can request the court or a public notary to incorporate the agreement into a judgment or an authentic instrument, which can be enforced afterwards. There are around 1500-2000 civil mediations each year.

Arbitration: In arbitration proceedings, the court judgment sets the amount of costs and who is responsible for them. Under Act LXXI of 1994 on Arbitration, the arbitration procedure can be used instead of court proceedings if (a) at least one of the parties is a person professionally engaged in economic activities to which the legal dispute relates (if this is not the case, ad hoc or permanent arbitration may also be decided on if allowed by the law); (b) if the parties can freely decide on the subject of the procedure; and (c) if arbitration proceedings were provided for by the parties in a written arbitration contract. The law may exclude the resolution of legal disputes by means of arbitration, and in certain types of civil actions arbitration cannot be used.

Conciliatory corporate proceedings: the Labour Mediation and Arbitration Service established under Act XXII of 1992 on the Labour Code serves primarily to resolve collective labour-related disputes. This body carries out three activities: conciliation, mediation and arbitration. The body's mediation services can also be used to resolve private labour disputes, but the law does not make this compulsory for the parties concerned.

To enforce the consumer rights, Act CLV of 1997 on Consumer Protection established conciliation bodies attached to the regional economic chambers. The conciliation bodies deal primarily with the out-of-court settlement of consumer disputes relating to the application of rules on the quality and safety of goods and services and product liability, and to the conclusion and implementation of contracts. The aim of the Conciliation Body procedure is to settle, by agreement, the disputes concerning consumers and undertakings, and, if this fails, to reach a ruling in the interests of enforcing consumers' rights in a quick, simple and effective manner. The bodies have no jurisdiction in disputes for which a rule establishes the competence of some other authority. Conciliation proceedings are initiated at the request of the consumer or, in the case of more than one consumer and with the authorisation of those concerned, of the civil organisation representing consumer interests.

Source Gemme: between 2009 and 2010 (national experimental program of mediation), in 52 cases the parties reported having participated in a mediation in family matters. The average cost of a mediation procedure was 35 euros per session. The average family case took 3 months. 29 cases were resolved. In Hungary, the practice of judicial mediation is still virtually unknown.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	987	3687	3728	946	93	101.1%
2008	826	3177	3110	893	105	97.9%
2010	888	3397	3278	1007	112	96.5%

Data on first instance courts' enforcement procedure, in the period 2006-2010, shows a somewhat stable trend, increasing by an average of 4.9% per year, from 93 days in 2006 to 105 days in 2008, and up to 112 days in 2010.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

Enforcement proceedings in domestic law: the average length of enforcement proceedings in civil and commercial matter is between 4 and 5 months. There is a maximum time to enforce a court decision in this matter: 5 years or the time fixed by the court decision. The enforcement agent in charge of enforcing a court decision can grant the debtor installments for the payment of the debt. In this case, the average time granted to the debtor to execute the court decision is between 12 and 24 months (UIHJ data).

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

When a decision in civil and commercial cases must be brought into effect, failing voluntary compliance by the debtor, the average percentage of cases paid in full following enforcement is between 40 and 60 % and the average percentage of decisions partially enforced is 20 % (UIHJ data).

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

In 2010, in accordance with Regulation (EC) No 1393/2007 of 13 November 2007, a very small amount of judicial and extrajudicial documents from another Member State of the European Union are served in Hungary with an average length of 1 month. In the same way, a very small amount of documents were transmitted in 2010 by Hungary to be served in another EU Member State in accordance with Regulation (EC) No 1393/2007 with an average length of 1 month. According to the European Judicial Atlas in Civil Matters, the fee for effecting the service of documents is not charged¹³¹ (UIHJ data).

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	3 277	4 823	5 006	3 094	NA	NA	NA
2008	3 329	4 284	4 850	2 763	NA	NA	NA
2010	2974	5146	4849	3271	246	94.2%	NA

In 2010, the data on average length of the employment dismissal procedure is not available. The % of pending cases for more than 3 years is not available.

Data are not available divided by the motivation.

¹³¹ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_hu_en.jsp?countrySession=21&

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Hungary, there are 111 courts of first instance with general jurisdiction, and 20 specialised courts of first instance (labour courts). There are 5 courts of appeal and 1 Supreme Court.

Organigramme (p. 369) : <http://curia.europa.eu/jcms/upload/docs/application/pdf/2008-11/qd7707226frc.pdf>

COURT STATISTICS AND CASE-FLOW MANAGEMENT

There is no system to evaluate regularly the activity (in terms of performance and output) of each court. Concerning the court activities, the main performance indicators at court system level are: incoming cases, length of proceedings (timeframes), closed cases and pending cases. No performance targets are set at the level of the court. There are specific quality standards determined for the Judicial System as a whole. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time and to monitor waiting time during court procedures is in place. The judges need to report frequently on those cases where the duration of the process is longer (duration of the case is more than 2 years). Based on these reports, special measures could be taken. The court presidents should report on these cases to the National Council of Justice. Concerning the evaluation of the overall functioning of courts on the basis of an evaluation plan agreed in advance, an annual report on the operation of the court is provided by the president of the county courts, regional courts. The evaluation consists mainly of the annual report of the presidents and the annual work schedule of the courts. Primary aspects of evaluation: the number of incoming, closed, pending cases, the length of procedures and events of hearings.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Hungary	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

In April 2011, Parliament adopted a new constitution called Fundamental Law. On the basis of this fundamental law several new laws and legislation on the organisation of courts were adopted.

Additional information provided by the European Commission:

These reforms were the subject of two Opinions of the Venice Commission of the Council of Europe. The European Commission raised concerns on the respect of the independence of the judiciary, in particular with regard to certain powers attributed to the President of the National Judicial Office. The European Commission referred Hungary to the Court of Justice of the EU regarding the Hungary's decision to lower the mandatory retirement age for judges, prosecutors and public notaries. On 6

November 2012, the Court ruled that the abrupt and radical lowering of the retirement age for judges, prosecutors and notaries in Hungary violates EU equal treatment rules (Directive 2000/78/EC).

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Hungary is 259,501,133 € (neither public prosecution nor legal aid budget is included). This corresponds to 26.0 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.54% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Hungary has 29.0 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 78.7 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and *Rechtspfleger* for countries which have such a category) per 100,000 inhabitants although the number decreases to 34.9 if lay judges are excluded, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 150.1 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, 106.2 excluding lay judges, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 121.2, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 4.2, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases, but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 6.8, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 2.0, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators of the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Hungary is 78.8 days, which corresponds to 0.32 times the EU27 average Disposition Time and 0.53 times the EU27 median Disposition Time. The situation is worsening compared to 56.5 days of 2008 and more or less in line with 78.3 days of 2006. The Clearance Rate in 2010 is 107.3%, which means that the pending cases are decreasing and the situation is improving.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 160.1 days, which corresponds to 0.56 times the EU27 average Disposition Time and 0.74 times the EU27 median Disposition Time. The situation is an improvement compared on the 169.6 days of 2008 and to the 176.6 days of 2006. The Clearance Rate in 2010 is 101.7%, which means that the pending cases are decreasing slightly and the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as “favourable”. A red case indicates that the country is above the EU27. Finally, a yellow case indicates that the country is in the EU27 mean¹³².

		Hungary			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	4	17	5.0	5	31	4.9
Starting business		4	18*	2.9	6	14	5.2
Licences		7.6	43*	185	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate¹³³.

		Hungary			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		2.0	15.0	39.2	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

¹³² See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

¹³³ See the methodological note for more details on this assessment.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Hungary	26.0	0.54%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Hungary is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Hungary	29.0	78.7 (34.9 excluding lay judges)	150.1	121.2	4.2
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel and lawyers per 100,000 inhabitants, and the lawyers/professional judges ratio, are in line with the EU27 mean.

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Hungary	6.8	2.0
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As regards the court system caseload, the number of other than criminal cases and the number of litigious civil and commercial cases per 100 inhabitants are in line with the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Hungary	78.3	56.5	78.8	107.26%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is good, below half that of the EU27 mean and the Clearance Rate is also good, being over 105% which means that the system is capable of dealing with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Hungary	176.6	169.6	160.1	101.67%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases at first instance courts in 2010 is adequate, below the EU27 mean and the Clearance Rate is about 100%, which means that the situation is stable and the system is capable of dealing with incoming cases.

The efficiency of the system as far as the main categories of cases are concerned is between adequate and good.

Additional Shortcomings: no quantitative data on mediation; there is no system to evaluate regularly the activity of each court, administrative cases efficiency is worsening.

7. RECOMMENDATIONS

Business-friendliness:

The cost of insolvency and bankruptcy procedures should be decreased by 5 points to reach the objective of 10%. Hungary should also sharply increase the recovery rate from insolvency and bankruptcy procedures with a rate of 80% as an objective. Finally, the licences system should be simplified.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate). This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system. **Efficiency of the judicial system:**

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Hungary the court system is performing well, and no specific recommendation is required from an efficiency perspective.

Additional recommendations:

Data on ADR and mediation should be collected, administrative cases efficiency should be monitored., ICT for communication between courts and parties should be further developed.

ANNEX: COUNTRY-STATISTICS

First instance

Hungary	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	122,691	87,739	29,093	987	405	24,022	5,859	NA
	2008	161,370	90,127	57,225	826	315	6,720	6,157	NA
	2010	207740	92979	57747	888	NA	NA	6951	49175
Incoming (number of cases)	2006	607254	178,338	413,159	3,687	1,459	276,013	15,757	NA
	2008	1184162	189,644	565,136	3,177	887	410,347	14,971	NA
	2010	682727	200922	400514	3397	NA	333205	14360	63534
Resolved (number of cases)	2006	601,006	179,317	405,984	3,728	1,479	277,493	15,705	NA
	2008	1,165,201	191,002	549,952	3,110	899	405,497	14,741	59395
	2010	732325	204275	461650	3,278	NA	354237	13727	59395
Pending 31 Dec. (number of cases)	2006	128,939	86,760	36,268	946	385	22,542	5,911	NA
	2008	180,331	88,769	72,409	893	303	11,570	6,387	NA
	2010	158142	89626	6611	1007	NA	NA	7584	53314

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	99%	101%	98%	101%	101%	101%	100%	NA
CR	2008	98%	101%	97%	98%	101%	99%	98%	NA
CR	2010	107%	102%	115%	96.5%	NA	106%	96%	93%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	78	177	33	93	95	30	137	NA
DT (Days)	2008	56	170	48	105	123	10	158	NA
DT (Days)	2010	79	160	5	112	NA	NA	202	328

Second instance

Hungary	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	9,789	6,995	2,428	118	NA	10	366	NA
	2008	10,194	7290	3696	109	0	176	458	-
	2010	13083	7278	3696	123	NA	95	186	1705
Incoming (number of cases)	2006	39989	23,690	15,413	543	NA	12	886	NA
	2008	46620	28,390	14,938	481	NA	876	1,935	-
	2010	53039	24554	19666	558	NA	301	739	7181
Resolved (number of cases)	2006	39,375	23,246	15,202	517	NA	21	927	NA
	2008	45,332	27,952	14,138	453	NA	803	1,986	-
	2010	52829	24026	19732	551	NA	343	714	7183
Pending 31 Dec. (number of cases)	2006	10,403	7,493	2,639	144	NA	1	325	NA
	2008	11,482	7,728	2,961	137	NA	249	407	-
	2010	13293	7526	3630	130	NA	53	251	1703

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	98%	98%	99%	95%	NA	175%	105%	NA
CR	2008	97%	98%	95%	94%	NA	92%	103%	NA
CR	2010	100%	98%	100%	99%	NA	114%	97%	100%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	96	118	63	102	NA	17	128	NA
DT (Days)	2008	92	101	76	110	NA	113	75	NA
DT (Days)	2010	92	114	67	86	NA	56	128	87

Highest instance

Hungary	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	1,277	716	NA	NA	NA	NA	561	NA
	2008	1,658	679	-	-	-	1	978	-
	2010	3030	1005	15	NA	NA	15	934	1061
Incoming (number of cases)	2006	6146	4,580	NA	NA	NA	NA	1,566	NA
	2008	4249	2,840	-	-	-	22	1,387	-
	2010	6395	2673	412	NA	NA	22	1991	1297
Resolved (number of cases)	2006	5,838	4,503	NA	NA	NA	NA	1,335	NA
	2008	3,829	2,596	-	-	-	14	1,219	-
	2010	6291	2618	421	NA	NA	31	1900	1321
Pending 31 Dec. (number of cases)	2006	1,585	793	NA	NA	NA	NA	792	NA
	2008	2,078	923	-	-	-	9	1,146	-
	2010	3134	1060	6	NA	NA	6	1025	1037

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	95%	98%	NA	NA	NA	NA	85%	NA
CR	2008	90%	91%	NA	NA	NA	64%	88%	NA
CR	2010	98%	98%	102%	NA	NA	141%	95%	102%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	99	64	NA	NA	NA	NA	217	NA
DT (Days)	2008	198	130	NA	NA	NA	235	343	NA
DT (Days)	2010	182	148	5	NA	NA	71	197	287



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

IRELAND

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

13. IRELAND

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Ireland	EU27 Mean	Ireland	EU27 Mean
Number of procedures	5	5	1 (20%)	1 (27%)
Time (days)	30	31	1 (3%)	9 (26%)
Cost (% of property value)	6.5	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	100	43	100	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Ireland	EU27 Mean	Ireland	EU27 Mean
Number of procedures	4	6	0 (0%)	1 (16%)
Time (days)	13	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	0.3	5.2	0 (0%)	0.8 (24%)
% of procedures possible by Internet	NA	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Ireland	EU27 Mean
Time (years)	0.4	1.9
Cost (% of estate)	9.0	10.5
Recovery rate (%)	86.9	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	1556	1525
Number of firms	180891	203333
Ratio	0.9	0.8

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Ireland	EU27 Mean
Number	3.2	5.1
Time (days)	28	39
Cost (€)	395	309

The OECD reports an index of 4 which places Ireland above the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹³⁴ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ¹³⁵
TOTAL annual approved budget allocated to the functioning of all courts	148,722,000	32.5	0.14%
Annual public budget allocated to (gross) salaries	52,943,000	11.6	0.05%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	5,457,000	1.2	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	180,000	0.0	0.00%
Annual public budget allocated to court buildings (maintenance, operating costs)	17,972,000	3.9	0.02%
Annual public budget allocated to investments in new (court) buildings	57,163,000	12.5	0.05%
Annual public budget allocated to training and education	1,172,000	0.3	0.00%
Other	13,835,000	3.0	0.01%

The overall budget of the justice system is 2,540,438,000 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, judicial protection of juveniles, functioning of the Ministry of Justice, refugees and asylum seekers and other (administration costs, various commissions, equality, disability, various public agencies).

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	147	176	10,933	18	196	40
Number / population *100,000	3.2	3.8	238.6	0.4	4.3	0.9
Number / State + Local annual expenditure in Billions	1.4	1.7	104.9	0.2	1.9	0.4

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

There are 147 professional judges sitting in ordinary and administrative courts, including 102 at first instance, 37 at second instance and 8 at highest instance. All the judges in all instances are

¹³⁴ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

¹³⁵ General government expenditure is based on 2010 Eurostat data.

professional and full-time, thus there are no judges sitting on an occasional basis and no non-professional judges performing various judicial functions in Ireland.

Non-judge staff

Of the 1,028 non-judge staff units of personnel who are working in ordinary and administrative courts, for 891 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 108 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Furthermore, there are 29 Rechtspfleger or similar bodies with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal (County Registrars¹³⁶; Master of the High Court¹³⁷; Examiner of the High Court¹³⁸; Official Assignee in Bankruptcy Adjudication on unsecured claims in personal insolvency proceedings; adjudication on secured claims against immovable property in personal insolvency proceedings).

The ratio of professional judges sitting in courts to non-judge staff who are working in courts is 1 to 7.0.

Other actors of the non-criminal justice system

Lawyers: there are 18 EU lawyers, established on the basis of Lawyers Directive 98/5 (16 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC) and 2 EU lawyers who have gained admission to the host member State under Art. 10 of Directive 98/5/EC). In civil and administrative cases, there is no monopoly on legal representation. Revenue Officials, Trade Union Officials and family members may all appear in limited circumstances. While solicitors are engaged in all cases, a barrister will appear as an advocate for the client when instructed by the client's solicitor to do so.

Notaries: they are private professionals under the authority of public authorities. The services they provide include the certification of authenticity of legal deeds and certificates.

Bailiffs acting as **enforcement agents:** there are bailiffs working in public. The sheriffs in Dublin and Cork (4) are solicitors in private practice appointed by the Government. The sheriffs in the other 24 counties are solicitors who combine their work as County Registrars with that of sheriff. There are also 12 Revenue Sheriffs who collect monies from defaulting tax payers.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: data not available.

Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non-criminal cases in 2010/ (judges and administrative personnel)
NA	NA	NA

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of

¹³⁶ Senior professional legal officer in Circuit Court. Duties: adjudication on claims against immovable property in proceedings for sale of such property; granting of orders for judgment in default; granting of pre-trial orders (e.g. discovery, joining of parties) and various types of order on consent.

¹³⁷ Granting of orders for judgment in default; granting of pre-trial orders (e.g. discovery, joining of parties) and various types of order on consent.

¹³⁸ Duties - adjudication on claims against immovable property in proceedings for sale of such property; adjudication on claims against company assets; court proceedings to liquidate company; conduct of inquiries into next of kin of deceased persons.

personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

and other cases) per member of different categories of personnel working in the courts.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management in less than 10% of courts, while there are electronic tools for tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Ireland 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, e-mail, Internet connection are available in 100% of courts, while electronic files are available in less than 10% of courts. As to the electronic communication between courts and their institutional environment, the possibility of e-filing is available in more than 50% of courts; the possibility to follow up on a case online and an access to court electronic registers are available in less than 50% of courts; finally, the possibility of using a service for the electronic processing of small claims and undisputed debt recovery is available in less than 10% of courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹³⁹

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Ireland	4.0	3.0	2.4	3.1
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

¹³⁹ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Ireland	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA
Second instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA
Highest instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2011	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

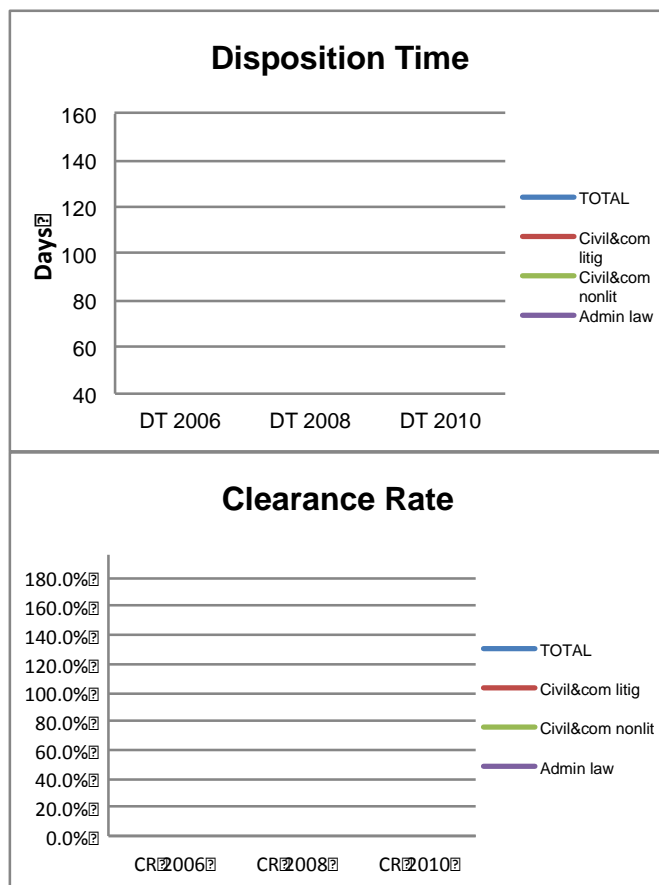
For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Ireland	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2011	First	NA	NA	NA	NA
	Second	NA	83.85%	NA	NA
	Highest	NA	NA	NA	NA

Ireland	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	NA	NA	NA	NAP
	Second	NA	NA	NA	NAP
	Highest	NA	NA	NA	NA

More detailed data of the efficiency of first, second and highest instance courts are available in the annexed tables.



Q11: Number, average duration and costs of non-criminal¹⁴⁰ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim (including	NAP	NAP	NAP	NAP	NAP	NAP	NAP

¹⁴⁰ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Payment Order)							
Small claim (not Payment Order)	NA	3947	3940	NA	NA	99.8%	NA
Payment Order	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	NA	224149	NA	NA	NA	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

The small claims procedure in Irish civil procedure is separate and distinct from the order for payment (viz. summary judgment) procedure. The centralized ICT system *Small Claims on-line* supports the electronic filing and communication in small claim procedures. Data on the use of the system is not available.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Ireland.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	NA	224149	NA	NA	NA	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

In Ireland, civil and commercial cases are dealt with by a court annexed mediation or private mediator. Family law cases (ex. divorce) are dealt with by a public authority (other than court) or private mediator. A possibility to receive legal aid for family law proceedings does exist. There are 25 accredited family mediators working for the Family Mediation Service. Numbers of other accredited mediators are not available.

Court procedures allow for other forms of ADR but do not prescribe the other options which may be availed of. One developing area within ADR is the collaborative law, involving lawyers for the respective parties seeking to collaborate on reaching a resolution. In this method, the collaborating lawyers do not act for their respective clients should the dispute proceed to litigation.

Otherwise, the Arbitration Act 2010 came into effect on 8 June 2010. It applies to all arbitrations beginning on or after that date. The Act replaces the Arbitration Acts from 1954 to 1998 and adopts the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration. The UNCITRAL Model Law represents a global consensus on principles to be applied in respect of international arbitration.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Ireland.

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Ireland.

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for Ireland (UIHJ data).

According to the European Judicial Atlas in Civil Matters, the costs for service of documents under Regulation 1393/2007 do not arise under the Irish law.¹⁴¹

¹⁴¹ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_ie_en.jsp?countrySession=9&, visited 11/07/2012.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA	NA

In 2010, the average length of proceedings in employment dismissal cases is not available. The % of pending cases for more than 3 years is not available.

Data on employment dismissal procedure motivation is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Ireland, there are:

- First instance courts: High Court (one court with nationwide jurisdiction), Circuit Court (one court limited as to territorial and substantive jurisdiction) operating in 8 circuits and at 55 separate venues and District Court (one court limited as to territorial and substantive jurisdiction) operating in 26 districts and at 107 separate venues;
- Second instance courts: the High Court mentioned above exercises appellate jurisdiction from the Circuit Court, the Circuit Court mentioned above exercises appellate jurisdiction from the District Court;
- Supreme Court is the Court of final appeal

Organigramme:

[http://www.supremecourt.ie/SupremeCourt/sclibrary3.nsf/\(WebFiles\)/B99163865E6192D180257421003D5D6F/\\$FILE/The%20Court%20System.pdf](http://www.supremecourt.ie/SupremeCourt/sclibrary3.nsf/(WebFiles)/B99163865E6192D180257421003D5D6F/$FILE/The%20Court%20System.pdf)

Source: site of the Supreme Court:

<http://www.supremecourt.ie/supremecourt/sclibrary3.nsf/HomeEN?openpage&l=en>

The Constitution outlines the structure of the court system in Ireland by expressly establishing the Supreme Court, a court of final appeal, and the High Court, a court of first instance with full jurisdiction in all criminal and civil matters. Provision is also made in Article 34.3.4 for the establishment of courts of local and limited jurisdiction, on the basis of which the Circuit Court and the District Court, which are organised on a regional basis, were established by statute.

The District Court is a court of local and limited jurisdiction, having the authority to deal only with certain matters arising within its functional area. The District Court's jurisdictional powers are conferred upon it by statute and it may not, therefore, deal with any matters which fall outside its statutory remit. In civil matters, the District Court has jurisdiction to deal with claims which are not in excess of €6,348.69. In matters of family law, the District Court has jurisdiction in matters concerning maintenance, custody of, and access to, children and may make orders pertaining to domestic violence.

The Circuit Court is also a court of local and limited jurisdiction, with appellate jurisdiction of all matters arising in the District Court. The Circuit Court has jurisdiction in civil matters where the claim exceeds the jurisdiction of the District Court but where it is not in excess of €38,092.14. In family law matters, the Circuit Court may grant orders of divorce, judicial separation and nullity as well as any ancillary orders. In criminal matters, the Circuit Court has jurisdiction to deal with all offences except those over which the Central Criminal Court has jurisdiction. Criminal trials in the Circuit Court are heard by a judge sitting with a jury.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The main performance indicators concerning courts activities are incoming cases, closed cases, satisfaction of court staff and satisfaction of users (regarding the services delivered by the court). No performance targets are set at the level of the court, no specific quality standards for the judicial system as a whole and there are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor waiting time during court procedures is in place: court waiting times, from decision of parties to refer a case to trial to the actual trial date, are the subject of annual reporting by the Courts Service.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Ireland	Yes	Yes	No	No	No	0.4	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

Concerning the budget: given the current economic situation in which Ireland finds itself, the budget for the justice sector, including the courts, is likely to face significant reductions (particularly in terms of staffing and capital) over the next number of years. All areas of Government will be subject to budgetary reductions.

Concerning courts and public prosecution services: proposals have been made for the introduction of a Court of Appeal to relieve the Supreme Court of a substantial proportion of its appellate jurisdiction. Implementation of this proposal is contingent on the receipt of approval by referendum of an amendment to the Constitution for the purpose.

Concerning High Judicial Council: the Government is committed to establishing a Judicial Council and a judicial conduct regime. A draft legislative scheme was published in August 2010.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Ireland is 148,722,000 € (neither public prosecution nor legal aid budget is included). This corresponds to 32.5 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.14% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Ireland has 3.2 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 3.8 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 25.6 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 238.6, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 74.4, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is not available, and also the number of incoming litigious civil and commercial cases at first instance is not available.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

Data on 2010 Disposition Time for the total number of other than criminal cases is not available.

Data on 2010 Disposition Time for litigious civil and commercial cases is not available.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean¹⁴².

		Ireland			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	5	30	6.5	5	31	4.9
Starting business		4	13*	0.3	6	14	5.2
Licences		3.2	28*	395	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate¹⁴³.

		Ireland			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		0.4	9.0	86.9	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

Courts	budget	in	Courts	budget	as
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¹⁴² See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

¹⁴³ See the methodological note for more details on this assessment.

	Euro per inhabitant	% of public expenditure
Ireland	32.5	0.14%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Ireland is in line with the EU27 mean comparing the number of Euros per inhabitant, while it is below the EU27 mean as % of public expenditure.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Ireland	3.2	3.8	25.6	238.6	74.4
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel per 100,000 inhabitants are low if compared to the EU 27 mean, while the number of lawyers per 100,000 inhabitants is in line with the EU27 mean (if on the high end) and the lawyers/professional judges ratio is very high.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Ireland	not available	not available
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, data is not available.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU

judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Ireland	NA	NA	NA	NA
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Ireland	NA	NA	NA	NA
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

The system efficiency cannot be assessed as for the main cases categories data is not available.

Additional Deficiencies: data on the caseload and efficiency of the system according to the main case categories is not available; there is no quantitative data on ADR and mediation; there are no specific quality standards for the judicial system as a whole.

7. RECOMMENDATIONS

Business-friendliness:

Regarding the licences system, Ireland should envisage a decrease of the cost of licences.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system. More data on the functioning of the system should be collected.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. Unfortunately, in Ireland, data on the efficiency of the system is not available and should be collected.

Additional recommendations:

Data on the caseload, on efficiency and on enforcement, which can be compared to other EU Member States should be collected. Quantitative data on ADR and mediation should be collected;

Monitoring and evaluation system should be developed. The possibility to develop and introduce quality standards for the whole judicial system should be explored.

ICT systems for the management of cases and for communication exchange between courts and their environment should be developed.

ANNEX: COUNTRY-STATISTICS

First instance

Ireland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	16	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NAP	NAP	NAP	NA
Incoming (number of cases)	2006	103919	NA	NA	NA	NA	262	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NAP	NAP	NAP	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	189	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	224149	NA	NA	NAP	NAP	NAP	NA
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	73	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NAP	NAP	NAP	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	72%	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	NA	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	141	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Second instance

Ireland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NAP	NAP	NAP	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	1325	NA	NA	NAP	NAP	NAP	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	1111	NA	NA	NAP	NAP	NAP	NA
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NAP	NAP	NAP	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	NA	84%	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Highest instance

Ireland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Incoming (number of cases)	2006	15433	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	NA	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

ITALY

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

14. ITALY

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Italy	EU27 Mean	Italy	EU27 Mean
Number of procedures	7	5	0 (0%)	1 (27%)
Time (days)	27	31	0 (0%)	9 (26%)
Cost (% of property value)	4.4	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	NA	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Italy	EU27 Mean	Italy	EU27 Mean
Number of procedures	6	6	0 (0%)	1 (16%)
Time (days)	4	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	17.0	5.2	0 (0%)	0.8 (24%)
% of procedures possible by Internet	NA	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Italy	EU27 Mean
Time (years)	1.8	1.9
Cost (% of estate)	22.0	10.5
Recovery rate (%)	61.1	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	11400	10923
Number of firms	4500000	4551250
Ratio	0.3	0.2

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Italy	EU27 Mean
Number	8.2	5.1
Time (days)	27	39
Cost (€)	393	309

The OECD reports an index of 0 which places Italy below the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹⁴⁴ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ¹⁴⁵
TOTAL annual approved budget allocated to the functioning of all courts	3,051,375,987	50.3	0.39%
Annual public budget allocated to (gross) salaries	2,274,336,102	37.5	0.29%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	58,083,534	1.0	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	317,399,440	5.2	0.04%
Annual public budget allocated to court buildings (maintenance, operating costs)	269,968,019	4.5	0.03%
Annual public budget allocated to investments in new (court) buildings	NA	NA	NA
Annual public budget allocated to training and education	755,313	0.0	0.00%
Other	130,833,579	2.2	0.02%

The overall budget of the justice system is 7,716,811,123 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, judicial protection of juveniles and functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	6,654	9,775	211,962	NA	4,750	3,365
Number / population *100,000	11.0	16.1	349.6	NA	7.8	5.6
Number / State + Local annual expenditure in Billions	8.5	12.5	270.2	NA	6.1	4.3

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

There are 6,654 professional judges sitting in ordinary and administrative courts, including 5,366 at first instance, 993 at second instance and 295 at highest instance. There are no professional judges sitting in courts on an occasional basis. In addition to professional judges, in Italy there are 3,121 non-

¹⁴⁴ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

¹⁴⁵ General government expenditure is based on 2010 Eurostat data.

professional judges performing various judicial functions in first instance.

Non-judge staff

Of the 24,661 non-judge staff units of personnel who are working in ordinary and administrative courts, for 9,699 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 107 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Finally, there are 702 technical staff and another 14,153 units working as assistants, receptionists, porters and other judicial staff. In Italy, there is no Rechtspfleger or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 3.7.

Other actors of the non-criminal justice system

Lawyers: in civil and administrative cases, lawyers have a monopoly on legal representation.

Notaries: they are private professionals under the authority of public authorities. The services they provide include the certification of authenticity of legal deeds and certificates and checking the legality of contracts.

Bailiffs acting as **enforcement agents:** the enforcement agents are bailiffs working in a public institution.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available.

Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non-criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non-criminal cases in 2010/ (judges and administrative personnel)
627	426	121

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management in more than 50% of courts, while there are electronic tools for tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Italy 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility of access to court electronic registers, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are available in more than 50% of courts, while the possibility to follow up on a case online is available in less than 50% of courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹⁴⁶

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Italy	4.0	3.3	2.8	3.4
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

¹⁴⁶ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Italy	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	462	507	107	NA
	DT 2008	378	533	44	NA
	DT 2010	395	493	162	NA
Second instance	DT 2006	1270	1324	227	NA
	DT 2008	1181	1229	242	NA
	DT 2010	1242	1268	291	NA
Highest instance	DT 2006	1250	1250	NA	NA
	DT 2008	1066	1066	NA	NA
	DT 2010	1231	1231	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2011	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Number of hearings: under the Italian system, it is not possible to count the number of hearings per each proceeding, at least this information is not collected in the information system.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Italy	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2011	First	108.89%	118.14%	97.39%	NA
	Second	83.02%	82.70%	97.13%	NA
	Highest	95.33%	94.82%	NA	NA

Italy	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	4913773	3828612	543207	NAP
	Second	512384	509229	3155	NAP
	Highest	97653	96129	NAP	NAP

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

Overall, between 2006 and 2010, the **total** number of incoming cases rises by an average of 3.6% per year, from 3,625,035 in 2006 to 4,591,018 in 2008 to 4,169,012 in 2010, while the number of resolved cases rises by an average of 7.2% per year, from 3,436,728 in 2006 to 4,431,317 in 2008 to 4,539,492 in 2010.

In the same period, the Disposition Time decreases by an average of 3.8% per year, from 462 days in 2006 to 378 days in 2008 to 395 days in 2010. At the same time, the number of incoming **litigious civil and commercial** cases between 2006 and 2010 decreases by an average of 4.0% per year,

Disposition Time

The Disposition Time chart shows the number of days from 2006 to 2010. The Y-axis ranges from 0 to 600 days. The X-axis shows DT 2006, DT 2008, and DT 2010. The legend includes TOTAL (blue), Civil&com litig (red), Civil&com nonlit (green), and Admin law (purple). The data shows that Civil&com litig has the highest disposition time, followed by TOTAL, and then Civil&com nonlit. Admin law is not represented in the data.

Year	TOTAL	Civil&com litig	Civil&com nonlit	Admin law
2006	470	510	110	-
2008	380	540	40	-
2010	400	500	170	-

Clearance Rate

The Clearance Rate chart shows the percentage of cases cleared from 2006 to 2010. The Y-axis ranges from 90.0% to 120.0%. The X-axis shows CR 2006, CR 2008, and CR 2010. The legend includes TOTAL (blue), Civil&com litig (red), Civil&com nonlit (green), and Admin law (purple). The data shows that Civil&com litig has the highest clearance rate, followed by TOTAL, and then Civil&com nonlit. Admin law is not represented in the data.

Year	TOTAL	Civil&com litig	Civil&com nonlit	Admin law
2006	95.0%	94.0%	92.0%	-
2008	97.0%	95.0%	97.0%	-
2010	109.0%	118.0%	98.0%	-

¹⁴⁷ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\text{MeanDT EU27FirstInstanceCaseCategory X, 2010} \right)} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\left(\text{MeanDT EU27SecondInstanceCaseCategory X, 2010} \right)} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)}$$

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{(MeanDT EU27FirstInstanceCaseCategory X, 2010)}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{(MeanDT EU27HighestInstanceCaseCategory X, 2010)}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{(Mean DT EU27 FirstInstanceCaseCategory X, 2010)}} \right)}$$

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As highest instance courts are concerned, the total number of other than criminal cases Disposition Time values in 2006, 2008 and 2010 (1250, 1066 and 1231 days respectively) and the civil and commercial litigious cases values in 2006 and 2010 (1250 and 1231 days respectively) are quite high compared to the first instance ones, while the civil and commercial litigious cases Disposition Time in 2008 even if high in absolute numbers (1066 days) is in line when compared to the 533 days of first instance Disposition time in the same year. Highest instance courts data for civil and commercial non litigious and for administrative cases are not available.

Q11: Number, average duration and costs of non-criminal¹⁴⁸ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	NA	NA	NA	NA	NA	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	4774281	3658097	4060559	4371819	393	111.0%	NA
litigious	4263961	2399530	2834879	3828612	493	118.1%	NA
non-litigious	510320	1258567	1225680	543207	162	97.4%	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Italy

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA

¹⁴⁸ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

1. Civil mediation	18,525	NA	NA	56 days	NA149	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

	2010 Incoming cases (number of cases)	of	Resolved cases (number of cases)	of	Settled through mediation (number of cases)	Average length (days)	Costs (€))	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Arbitration cases	753		NA		NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	4774281	3658097	4060559	4371819	393	111.0%	NA
litigious	4263961	2399530	2834879	3828612	493	118.1%	NA
non-litigious	510320	1258567	1225680	543207	162	97.4%	NA

In Italy, civil and commercial cases are worked on by a private mediator or a judge, family law cases (ex. divorce) by a judge and employment dismissals by a public authority (other than the court). A possibility to receive legal aid for mediation procedure does exist. The number of accredited or registered mediators who practice judicial mediation is unknown. In 2010, a large reform on ADR (decreto 28/2010) has been approved and since 21 March 2011, a number of matters in the civil sector require that a mandatory mediation procedure is executed before the case can be treated in court. In March 2012, the mediation procedure will be mandatory for additional subjects of civil sector. The Italian Constitutional Court found that the Italian provisions on compulsory mediation are against the Constitution. On 24 October 2012, the Italian Constitutional Court declared invalid the provision of Legislative Decree n. 28 dated 4 March 2010. New legislation will be examined by the Italian Parliament.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	571802	423899	438116	557585	465	103.4%
2008	542358	477159	507931	511586	368	106.4%
2010	509972	510915	478933	541954	413	93.7%

Data on first instance courts enforcement procedure, in the period 2006-2010, show a stable situation, decreasing by an average of -2.9% per year, going from 465 days in 2006 to 368 days in 2008 to 413 days in 2010.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

¹⁴⁹ The average value of the disputes is 16,331 euros.

No data available for Italy

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Italy

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

According to the European Judicial Atlas in Civil Matters, there are currently no service costs for documents from abroad (service of documents under Regulation 1393/2007)150.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	7 476	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA	NA

In 2010, the average length of proceedings in employment dismissal cases is not available. The % of pending cases for more than 3 years is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Italy, there are 1,231 courts of first instance with general jurisdiction: 165 Tribunali (Tribunal), 220 Sezioni distaccate (Tribunal - detached branch), 842 Giudici di Pace (Justice of Peace Courts) and 4 sezioni distaccate di giudici di pace (Justice of Peace Courts – detached branch). In addition, there are 87 specialised courts of first instance, including 29 Minors (or juvenile) Courts.

For the second instance, there are 26 Corti d'Appello (Appellate courts), 3 Corti d'Appello Sezioni distaccate (Appellate courts - detached branch) and 29 enforcement of criminal sanctions courts – 2nd instance. There is one Supreme Court.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly: a series of key indicators have been developed

¹⁵⁰ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_it_en.jsp?countrySession=5&

in collaboration with the High Judicial Council (CSM) to evaluate the performance of the courts (e.g. the Clearance Rate and the turn-over ratio). The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), closed cases and pending cases and backlogs. There are performance targets defined at the level of the courts. The two main targets of the courts are: reduction of pending cases and reduction of costs. Every year, at the beginning of the year, the Ministry of Justice provides new performance targets. For the first time in Italian judiciary system, law decree n. 98/2011 has provided for economic bonuses to courts and single magistrates when the number of pending cases is reduced by a certain percentage in a year (civil sector only). There are no specific quality standards for the judicial system as a whole. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time does exist but not for monitor waiting time during court procedures is in place.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Italy	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

An overall reform of the judicial system was presented by the Government in 2011 and its review has started within the Justice Commissions of Parliament. The economic turmoil which exploded during the summer of 2011 has changed completely the parliamentary agenda, thus now the reform is on stand-by.

Concerning the budget: the Italian Ministry of Justice is facing, like all other segments of the public administration, an overall cost reduction and a higher level of control on expenditures. Several actions in this direction have been adopted with an impact on both capital investments and operational expenses.

Concerning the courts: in August 2011, the Italian Government issued a delegated law with an objective to reduce first instance courts. The criteria to be followed in the selection of offices to be closed are strictly related to the pursuing of cost reduction and efficiency improvement. The law focuses on a significant reduction of Judge of Peace Offices (now they are 846) and of remote sites of Tribunals (now they are 220). Finally the law requires a reduction of small Tribunals and eventually small Prosecutor Offices. The reform could require the reorganisation of territorial distribution of offices and of their competences in order to balance the flows of proceedings and the number of users accessing the services.

Concerning the legal professionals: there is an important debate currently in Italy around the reform of professions and this topic is strictly connected with a more general need of liberalisation of public services. Government and representatives of legal professions are discussing about the best way to balance access to professions and quality of service.

Concerning civil laws: the reforms in civil sector have focused on efficiency and simplification of procedures.

Concerning mediation and ADR: in March 2012, for two important additional categories of civil proceedings it will become mandatory to undergo a mediation procedure before they can enter the ordinary jurisdiction. In addition to that, the Ministry of Justice is issuing a number of acts that reinforce and promote the use of ADR as an alternative to ordinary justice.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Italy is 3,051,375,987 € (neither public prosecution nor legal aid budget is included). This corresponds to 50.3 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.39% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Italy has 11.0 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 16.1 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and *Rechtspfleger* for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 56.8 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 349.6, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 31.9, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 6.9, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 4.0, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time of the total number of other than criminal cases in Italy is 395.1 days, which corresponds to 1.59 times the EU27 average Disposition Time and 2.68 times the EU27 median Disposition Time. The situation is worsening compared to the 378.1 days of 2008. At the same time, the situation in 2010 is an improvement on the 461.7 days of 2006. The Clearance Rate in 2010 is 108.9%, which means that the pending cases are decreasing and the situation is improving.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 492.9 days, which corresponds to 1.73 times the EU27 average Disposition Time and 2.28 times the EU27 median Disposition Time. The situation is an improvement on the 532.9 days of 2008 and to the 507.4 days of 2006. The Clearance Rate in 2010 is 118.1%, which means that the pending cases are decreasing and the situation is improving.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean¹⁵¹.

		Italy			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	7	27	4.4	5	31	4.9
Starting business		6	4*	17.0	6	14	5.2
Licences		8.2	27*	393	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate¹⁵².

		Italy			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		1.8	22.0	61.1	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

¹⁵¹ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

¹⁵² See the methodological note for more details on this assessment.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Italy	50.3	0.39%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Italy is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Italy	11.0	16.1	56.8	349.6	31.9
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges and administrative personnel per 100,000 inhabitants are in line with the EU27 mean. The number of lawyers per 100,000 inhabitants is high compared to the EU27 mean. The lawyers/professional judges ratio is in the EU27 mean although on the high end.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants

Italy	6.9	4.0
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, the number of other than criminal cases and the number of litigious civil and commercial cases per 100 inhabitants are in line with the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Italy	461.7	378.1	395.1	108.89%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases at first instance courts in 2010 is not adequate, as it is above the EU27 mean. The situation is nevertheless improved if compared with the previous years and the Clearance Rate is above 105% which means that the system is capable of dealing with incoming cases and the situation may still improve.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Italy	507.4	532.9	492.9	118.14%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases at first instance courts in 2010 is negative, although it is an improvement compared to the previous years. The Clearance Rate is above 110% which means that the system is capable of dealing with incoming cases.

The system efficiency as the main categories of cases are concerned at first instance courts is between not adequate and negative though slowly improving. Second and highest instance situation is negative.

7. RECOMMENDATIONS

Business-friendliness:

Regarding the registration of property, Italy should simplify the procedure by 1 or 2 steps. Moreover, Italy should sharply reduce the cost necessary to start a business with a cost of 5% of the GNI as an objective. Same recommendation applies for the cost of insolvency and bankruptcy procedures with a cost of 10% as an objective. Finally, Italy should simplify the licences system and decrease of the cost of licences.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Italy, the system efficiency at first instance level as the main categories of cases are concerned is between not adequate and negative though slowly improving. Efforts need to be intensified to increase productivity, also through more active case management. Existing best practices (i.e. the Turin's court 'Strasbourg programme') should be sustained and disseminated.

Additional recommendations:

Procedural simplification and limits to the possibility of appeal for small claims could increase productivity and reduce the workload of second and highest instance courts.

Data collection can be improved in order to better monitor the efficiency of the system, including the monitoring of the number of hearings per category of cases.

Data on mandatory ADR on-going experience should be collected. ICT systems for the communication between the courts and their environment should be further implemented.

ANNEX: COUNTRY-STATISTICS

First instance

Italy	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	4,158,870	3,515,535	71,533	571,802	NA	NA	NA	NA
	2008	4,824,841	3,849,578	432,905	542,358	NAP	NAP	NAP	NAP
	2010	5284253	4263961	510320	509972	NAP	NAP	NAP	NAP
Incoming (number of cases)	2006	3625035	2,825,543	375,593	423,899	NA	NA	NA	NA
	2008	4591018	2,842,668	1,271,191	477,159	NAP	NAP	NAP	NAP
	2010	4169012	2399530	1258567	510915	NAP	NAP	NAP	NAP
Resolved (number of cases)	2006	3,436,728	2,653,113	345,499	438,116	NA	NA	NA	NA
	2008	4,431,317	2,693,564	1,229,822	507,931	NAP	NAP	NAP	NAP
	2010	4539492	2834879	1225680	478933	NAP	NAP	NAP	NAP
Pending 31 Dec. (number of cases)	2006	4,347,177	3,687,965	101,627	557,585	NA	NA	NA	NA
	2008	4,590,715	3,932,259	146,870	511,586	NA	NA	NA	NA
	2010	4913773	3828612	543207	541954	NAP	NAP	NAP	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	95%	94%	92%	103%	NA	NA	NA	NA
CR	2008	97%	95%	97%	106%	NA	NA	NA	NA
CR	2010	109%	118%	97%	94%	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	462	507	107	465	NA	NA	NA	NA
DT (Days)	2008	378	533	44	368	NA	NA	NA	NA
DT (Days)	2010	395	493	162	413	NA	NA	NA	NA

Second instance

Italy	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	348,476	345,801	2,675	NA	NA	NA	NA	NA
	2008	428,426	424,818	3,038	NAP	NAP	NAP	NAP	NAP
	2010	481,595	478,557	3,038	NA	NAP	NAP	NAP	NAP
Incoming (number of cases)	2006	155,567	149,341	6,226	NA	NA	NA	NA	NA
	2008	159,187	151,699	7,488	NAP	NAP	NAP	NAP	NAP
	2010	181,331	177,260	4,071	NA	NAP	NAP	NAP	NAP
Resolved (number of cases)	2006	112,519	107,027	5,492	NA	NA	NA	NA	NA
	2008	138,707	132,036	6,671	NAP	NAP	NAP	NAP	NAP
	2010	150,542	146,588	3,954	NA	NAP	NAP	NAP	NAP
Pending 31 Dec. (number of cases)	2006	391,524	388,115	3,409	NA	NA	NA	NA	NA
	2008	448,906	444,481	4,425	NAP	NAP	NAP	NAP	NAP
	2010	512,384	509,229	3,155	NA	NAP	NAP	NAP	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	72%	72%	88%	NA	NA	NA	NA	NA
CR	2008	87%	87%	89%	NA	NA	NA	NA	NA
CR	2010	83%	83%	97%	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	1270	1324	227	NA	NA	NA	NA	NA
DT (Days)	2008	1181	1229	242	NA	NA	NA	NA	NA
DT (Days)	2010	1242	1268	291	NA	NA	NA	NA	NA

Highest instance

Italy	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	95,081	95,081	NA	NA	NA	NA	NA	NA
	2008	102,588	102,588	NA	NAP	NAP	NAP	NAP	NA
	2010	96233	94573	NAP	1660	NAP	NAP	NAP	NAP
Incoming (number of cases)	2006	35169	35,169	NA	NA	NA	NA	NA	NA
	2008	30406	30,406	NA	NAP	NAP	NAP	NAP	NA
	2010	30383	30063	NAP	320	NAP	NAP	NAP	NAP
Resolved (number of cases)	2006	29,445	29,445	NA	NA	NA	NA	NA	NA
	2008	33,928	33,928	NA	NAP	NAP	NAP	NAP	NA
	2010	28963	28507	NAP	456	NAP	NAP	NAP	NAP
Pending 31 Dec. (number of cases)	2006	100,805	100,805	NA	NA	NA	NA	NA	NA
	2008	99,066	99,066	NA	NAP	NAP	NAP	NAP	NA
	2010	97653	96129	NAP	1524	NAP	NAP	NAP	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	84%	84%	NA	NA	NA	NA	NA	NA
CR	2008	112%	112%	NA	NA	NA	NA	NA	NA
CR	2010	95%	95%	NA	143%	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	1250	1250	NA	NA	NA	NA	NA	NA
DT (Days)	2008	1066	1066	NA	NA	NA	NA	NA	NA
DT (Days)	2010	1231	1231	NA	1220	NA	NA	NA	NA

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

LATVIA

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

15. LATVIA

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Latvia	EU27 Mean	Latvia	EU27 Mean
Number of procedures	5	5	0 (0%)	1 (27%)
Time (days)	17	31	0 (0%)	9 (26%)
Cost (% of property value)	2.0	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	40	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	0	176861	176034	827

Disposition Time: 2 days (EU27 mean: 49 days / EU27 median: 24 days)

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Latvia	EU27 Mean	Latvia	EU27 Mean
Number of procedures	4	6	0 (0%)	1 (16%)
Time (days)	16	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	2.4	5.2	0.0 (0%)	0.8 (24%)
% of procedures possible by Internet	100	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	30	43	68

Disposition Time: 577 days (EU27 mean: 112 days / EU27 median: 10 days)

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Latvia	EU27 Mean
Time (years)	3.0	1.9
Cost (% of estate)	13.0	10.5
Recovery rate (%)	56.2	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	2574	2428
Number of firms	69863	NA
Ratio	3.7	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Latvia	EU27 Mean
Number	1.5	5.1
Time (days)	21	39
Cost (€)	135	309

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹⁵³ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ¹⁵⁴
TOTAL annual approved budget allocated to the functioning of all courts	36,919,820	16.6	0.47%
Annual public budget allocated to (gross) salaries	24,194,890	10.9	0.31%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	1,807,390	0.8	0.02%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	2,840,282	1.3	0.04%
Annual public budget allocated to court buildings (maintenance, operating costs)	6,677,230	3.0	0.08%
Annual public budget allocated to investments in new (court) buildings	NA	NA	NA
Annual public budget allocated to training and education	211,718	0.1	0.00%
Other	1,188,310	0.5	0.02%

The overall budget of the justice system is 137,747,332 euros. This includes the budget for the court system, legal aid, prison system, probation services, functioning of the Ministry of Justice and the budget for institutions that are under supervision of the Ministry of Justice, budget for the Constitutional Court, health and life insurance for judges, expenditure for service pension for judges.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	472	482 ¹⁵⁵	1,360	10	125	116
Number / population *100,000	21.2	21.6	61.0	0.4	5.6	5.2
Number / State + Local annual expenditure in Billions	59.9	61.1	172.5	1.3	15.9	14.7

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

Judges

There are 472 professional judges sitting in ordinary and administrative courts, including 298 at first

¹⁵³ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

¹⁵⁴ General government expenditure is based on 2010 Eurostat data.

¹⁵⁵ Includes 10 lay judges.

instance, 125 at second instance and 49 at highest instance. Furthermore, there are no professional judges sitting in courts on an occasional basis. In addition to professional judges, in Latvia there are 10 non-professional judges performing various judicial functions.

Non-judge staff

Of the 1,601 non-judge staff units of personnel who are working in ordinary and administrative courts, for 1,082 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts (assistant to judge, court hearing secretary, court interpreter). Other 354 units of personnel are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management) (assistant to chief judge, head of Chancellery, deputy of head of Chancellery, court secretary, archivist, administrator and consultant). Finally, there are 160 units of technical staff (court courier, physical work performers) and other 5 units in the division of case-law from the Supreme Court. In Latvia, there is no *Rechtspfleger* or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 3.4.

Other actors of the non-criminal justice system

Lawyers: there are 10 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC). In civil and administrative cases, lawyers have no monopoly on legal representation. Civil procedure law and administrative procedure law state that any physical person may be an authorised representative in the civil or administrative procedure. Physical persons may conduct matters in court personally or through their authorised representatives. Matters of legal entities shall be conducted in court by officials who act within the scope of authority conferred upon them pursuant to law, articles of association or by-law, or by other representatives authorised by legal persons. Matters of State or local government institutions entitled by law to protect the rights or lawful interests of other persons in court shall be conducted by the head of the institution or a representative authorised by the head of the institution. The participation in civil or administrative matters referred to above does not deprive the participants of the right to retain an advocate to provide legal assistance.

Notaries: they are public agents. Notaries have duties in the framework of civil procedure, in the field of legal advice and to certify the authenticity of legal deeds and certificates. A sworn notary has jurisdiction to make notarial deeds, certifications, accept money, securities and documents for bailment, accept subject matter of an obligation for bailment, conduct inheritance and divorce matters, draw up property division drafts in cases provided for by law, perform other activities provided for by laws. A sworn notary is also permitted to ensure the fixing of rights and security of rights in land registers, to secure permits, certificates and other documents, required for the closure or fixing of deeds to be notarially made or certified, from State, local government and private institutions as well as from officials and private persons, to draw up draft deeds, draft contracts and drafts of other documents related to the activity of a sworn notary, as well as make copies and translations, and to provide any other legal assistance.

Bailiffs acting as **enforcement agents:** enforcement agents are bailiffs practicing as private professionals under the control of the public authority. Sworn bailiffs perform the execution of the decisions of the court and other institutions, as well as other activities prescribed by Latvian legislation. They are independent in performing their official activities and subject only to law. Sworn bailiffs are persons belonging to the court system assigned to regional courts and perform the duties prescribed by laws thereto. In respect of the official activities, sworn bailiffs are comparable to State officials.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases in 2010/Professional judges sitting in courts full time	Incoming first instance non criminal cases in 2010/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases in 2010/ (judges and administrative personnel)
275	269	62

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management in less than 10% of courts, while there are electronic tools for tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Latvia 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility to follow up on a case online, access to court electronic registers, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are also available in 100% of courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹⁵⁶

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

¹⁵⁶ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

ICT				
Country	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	Overall ICT installed base
Latvia	4.0	3.0	3.5	3.5
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Latvia	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	137	157	14	694
	DT 2008	158	304	3	572
	DT 2010	139	330	19	472
Second instance	DT 2006	217	190	46	391
	DT 2008	285	298	59	387
	DT 2010	343	257	43	472
Highest instance	DT 2006	90	82	NA	99
	DT 2008	172	210	NA	136
	DT 2010	207	NA	NA	121

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Latvia	Instance	TOTAL (Civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit	Admin law
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other cases)					
CR 2010	First	96.01%	85.77%	102.48%	95.80%
	Second	97.49%	95.79%	106.38%	95.80%
	Highest	88.34%	NA	NA	95.29%

Latvia	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	47354	37442	3985	5927
	Second	10113	2816	53	5927
	Highest	1176	NA	NA	301

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

In the 2006-2010 period, the **total** number of incoming cases rises by an average of 22.8% per year, from 57,047 in 2006 to 96,783 in 2008 to 129,655 in 2010, while the number of resolved cases rises by an average of 21.4% per year, from 57,291 in 2006 to 83,706 in 2008 to 124,484 in 2010.

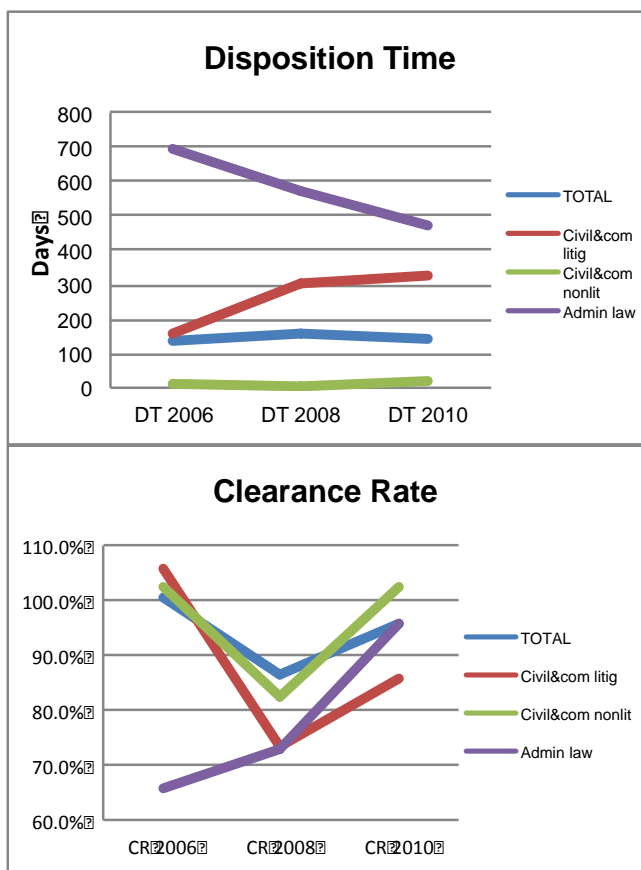
During the same period, Disposition Time shows an overall stable situation, rising by an average of 0.4% per year, from 137 days in 2006 to 158 days in 2008 but then decreasing to 139 days in 2010.

The number of incoming **litigious civil and commercial** cases rises by an average of 9.2% per year in the period 2006-2010, from 34,010 in 2006 to 50,318 in 2008 to 48,284 in 2010, while the number of resolved cases rises by an average of 3.6% per year, from 35,972 in 2006 to 36,914 in 2008 to 41,411 in 2010.

Disposition Time in litigious civil and commercial cases shows a negative trend, increasing by an average of 20.4% per year, from 157 days in 2006 to 304 days in 2008 to 330 days in 2010.

The number of incoming **non-litigious civil and commercial** cases rises by an average of 9.2% per year between 2006 and 2010, from 53,941 in 2006 to 104,363 in 2008 to 76,582 in 2010, while the number of resolved cases rises by an average of 9.2% per year, from 55,258 in 2006 to 85,902 in 2008 to 78,485 in 2010. Disposition Time in non-litigious civil and commercial cases shows an overall negative but not consistent trend, increasing by an average of 8.0% per year, from 14 days in 2006 to 3 days in 2008 to 19 days in 2010.

The number of incoming **administrative** cases rises by an average of 11.5% per year, from 3,104 in 2006 to 4,196 in 2008 to 4,789 in 2010, while the number of resolved cases rises by an average of 22.5% per year, from 2,039 in 2006 to 3,050 in 2008 to 4,588 in 2010. Disposition Time shows a positive trend, decreasing by an average of 9.2% per year, from 694 days in 2006 to 572 days in 2008 to 472 days in 2010.



Compared to first instance Disposition Time values for the same years,¹⁵⁷ Disposition Time of second instance courts in 2010 for the total number of other than criminal cases value (343 days) and the 2006, 2008 and 2010 civil and commercial non litigious cases values (46, 59 and 46 days respectively) are high. It should be considered that first instance courts Disposition Time in civil and commercial non litigious cases values are particularly low. All other second instance Disposition Time values are in line with the first instance Disposition time in the same year.

As highest instance courts are concerned, the 2006 Disposition Time of civil and commercial litigious, and of administrative cases are comparatively low, while all other available values are in line with the first instance Disposition time in the same year.

Q11: Number, average duration and costs of non-criminal¹⁵⁸ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

¹⁵⁷ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NAP	NAP	NAP	NAP	NA	NA	NAP
Small claim (not Payment Order)	NAP	NAP	NAP	NAP	NA	NA	NAP
Payment Order	5608	72538	74397	3749	18	102.6%	LVL 2276102

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	36457	124866	119896	41427	126	96.0%	NA
litigious	30569	48284	41411	37442	330	85.8%	NA
non-litigious	5888	76582	78485	3985	19	102.5%	NA

The category "Payment Order" provides data on the total number of cases from two categories: "Undisputed compulsory execution of obligations" and "Compulsory execution of obligations in accordance with warning procedures".

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Latvia

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NAP	NAP	NAP	NAP	NAP	NAP	NAP
1. Civil mediation	NAP	NAP	NAP	NAP	NAP	NAP	NAP
2. Family mediation	NAP	NAP	NAP	NAP	NAP	NAP	NAP
3. Administrative mediation	NAP	NAP	NAP	NAP	NAP	NAP	NAP
4. Employment dismissal mediation	NAP	NAP	NAP	NAP	NAP	NAP	NAP

¹⁵⁸ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	36457	124866	119896	41427	126	96.0%	NA
litigious	30569	48284	41411	37442	330	85.8%	NA
non-litigious	5888	76582	78485	3985	19	102.5%	NA

In Latvia, according to 2010 data, there were 440 judicial mediation procedures. The number of accredited or registered mediators who practice judicial mediation procedures is not available. A possibility to receive legal aid for mediation procedure does not exist.

Source Gemme: there is no official statistics regarding the use of mediation in any relation to the courts yet. Even if there does not exist a law on mediation in matters other than criminal matters in Latvia at the moment, expressly mentioning it, mediation is practiced by independent mediators, three non-governmental associations, a municipal institution working on family & children matters in Riga. Mediation in criminal matters is offered by State Probation Service and Victims's Help Centre.

The Law of Civil Procedure, the Law of Criminal Procedure and the Law of Administrative Procedure contain provisions on conciliation. The Law of Civil Procedure requires a judge to facilitate conciliation (Articles 149.1 and 163). As it does not mention the methods to be used to obtain conciliation, mediation methods can also be used – they are not specified, but they are not forbidden either. A limited number of judges who have had training in mediation, sometimes use mediation methods to facilitate a peaceful resolution of the conflict in a particular case, which is not shown in any statistics.

(Source: CEPEJ): the Civil Procedure Law provides regulations considering arbitration procedures in Latvia, namely an arbitration court may be established for the resolution of a specific dispute or operate permanently. A permanent arbitration court operates on the basis of articles of association or by-law, whereas an arbitration court established for the resolution of a specific dispute operates in accordance with the procedures prescribed by the Civil Procedure Law. A permanent arbitration court may be established by legal persons who have to notify the Ministry of Justice of its establishment. The resolution of disputes by an arbitration court is not an entrepreneurial activity.

As regards conciliation, according to Article 149, paragraph 2, of the Civil Procedure Law, in preparing a case for trial, the judge shall strive to reconcile the parties. Article 149.1 paragraph 1 prescribes that during a preparatory sitting, the judge shall interview participants regarding the substance of the matter in order to clarify the subject-matter and limits of the dispute, explain to the participants their procedural rights and duties, the consequences of performing or failing to perform procedural actions, decide issues provided for in Article 149, paragraphs 3, 4 and 5 of this Law, strive to reconcile the parties, if necessary, set a time period for separate procedural actions. In addition, Article 151, paragraph 3, prescribes that the judge shall strive to reconcile the parties also in the course of the trial of a matter.

In addition, the Civil Procedure Law determines that a settlement is permitted at any stage of the procedure and in any civil dispute, except in cases provided for in the Civil Procedure Law, i.e., settlement is not permitted in disputes in connection with amendments in registers of documents of civil status, in disputes in connection with the inheritance rights of persons under guardianship or trusteeship, in disputes regarding immovable property if among the participants there are persons whose rights to own or possess immovable property are restricted in accordance with procedures prescribed by law or if the terms of the settlement infringe on the rights of another person or on the interests protected by law.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NAP	NAP	NAP	NAP	NA	NA
2010	NAP	NAP	NAP	NAP	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Latvia

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Latvia

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for Latvia (UIHJ data)

Concerning the costs: according to the European Judicial Atlas in Civil Matters: the Latvian authorities do not serve documents pursuant to Article 11(2)(a) of the Regulation, and Latvia is therefore not

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

communicating the information specified in Article 11(2)¹⁵⁹.

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	118	148	199	66	121	134.5%	51,3
2008	48	130	122	51	153	93.8%	52,5
2010	317	446	559	204	133	125.3%	NA

In 2010, the average length of proceedings in employment dismissal cases is of 141 days in 1st instance courts, 99 days in 2nd instance courts, and 365 days in 3rd instance courts. The % of pending cases for more than 3 years is 4%.

In Latvia, for employment dismissal procedures, the statistical data in relation to the motivation of the dismissal is not collected.

¹⁵⁹ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_lv_en.jsp?countrySession=19&

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

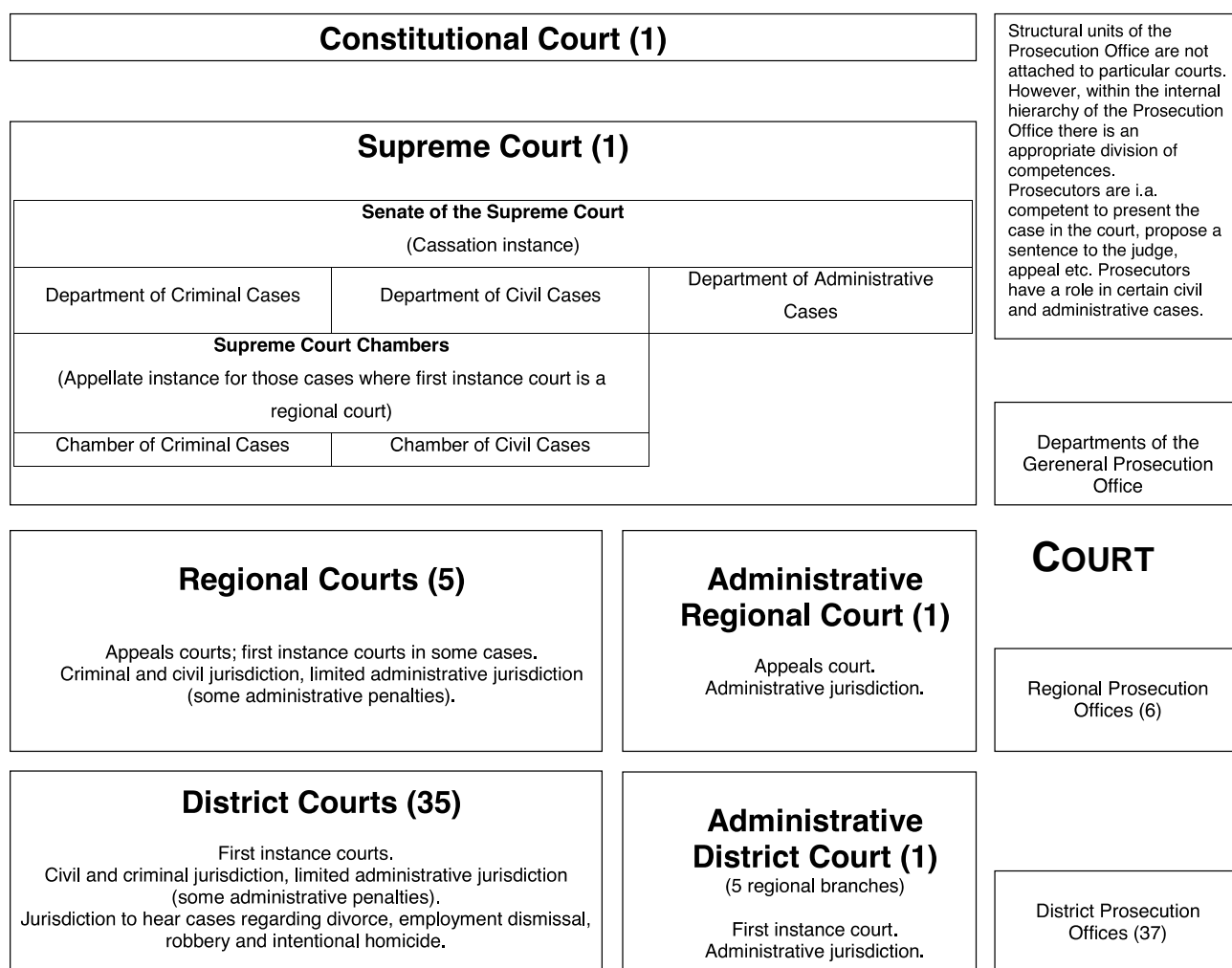
In Latvia, for the first instance, there are:

- 34 first instance courts of general jurisdiction (district (city) courts)
- 1 specialised court: the administrative district courts, and 4 court houses

For the second instance, there are:

- 5 regional court and 2 court houses
- 1 administrative regional court

The highest instance is the Supreme Court.



STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs, court administration summarises a wide range of parameters of court performance statistics twice a year. The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), closed cases, pending cases and backlogs, productivity of judges and court staff and judicial quality and organisational quality of the courts. Performance targets are set at the level of the court, the main targets of the courts are promotion of access to justice, development of the judicial infrastructure, management and work organisation; promotion of human resource development in the judiciary; reduction of the judiciary overload; promotion of independence of the judiciary; improvement of the land registry process. There are specific quality standards for the Judicial System as a whole: on 26 June 2008, "The visitors service standards of the district (city) courts and regional courts" was approved. This courts visitors service standard summarises the general principles of

judicial reception and providing with information. Standard helps the court staff to raise their professionalism and understand the court visitors servicing values. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable timeframe and monitor waiting time during court procedures is in place.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Latvia	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

Concerning the mediation (source: Gemme): on 18 February 2009, the Cabinet of Ministers supported the motion that there would be an independent mediation and a court-annexed mediation in Latvia. A task group under the supervision of the Ministry of Justice has finished drafting the new Mediation Law and corresponding amendments of Civil Procedure Law. The draft Mediation Law and corresponding amendments of Civil Procedure Law are going through the official legislative procedures at the moment and have not been adopted yet.

(Source: CEPEJ): It has to be noted that in Latvia there has been ongoing work concerning the development of a Law on Mediation that is currently planned to be adopted until mid 2012. It is envisaged that the law shall govern the implementation of all forms of mediation and it shall provide the integration of mediation procedures into the Latvian civil procedure in order to diminish the workload of courts.

The law on mediation has been tabled by the Government in November 2012, and is expected to be in force mid 2013.

Concerning the courts services: on 21 July 2011, the Parliament adopted amendment to the Law on Judicial Power which provides that from 1 January 2012, Land registry offices are incorporated into the structure of regional (city) courts and that powers of land registry judges are extended also to examining the cases of undisputed compulsory execution of obligations, compulsory execution of obligations in accordance with the warning procedures and approval of statements of auctions.

Reforms of the Law on Judicial Power is also being proposed to go to a "pure instance" system, i.e. that all cases will be submitted to the first instance district courts. It will apply gradually to all civil matters and be completed in 2019.

In 2010, Latvia established the Council of the Judiciary with coordinating and advisory functions in the development of court system's strategy and policy, in the improvement of the functioning of the court system and in the judge selection procedure.

A new professional evaluation system for judges has also been established.

A new insolvency law, which increases the efficiency of insolvency procedures, has been adopted in 2010. Further amendments will be considered in 2013.

Amendments to the Civil Procedure Law for improving the efficiency of procedures have been adopted (e.g. widening use of the written procedure) and further amendments are under discussions in the

parliament, which concern restrictions to present new evidences in the court of appeal, declared place of residence, default judgment.

The Ministry of Justice works on a draft Arbitration law

5. ANALYSIS

5.1 RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Latvia is 36919820 € (neither public prosecution nor legal aid budget is included). This corresponds to 16.6 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.47% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As human resources are concerned, Latvia has 21.2 full time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 21.6 judges (this number includes full time professional judges, professional judges sitting in courts on an occasional basis, non professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 93.4 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 61.0, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full time professional judges is 2.9, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload a Justice System and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 5.8, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 2.2, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Latvia is 138.8 days, which corresponds to 0.56 times the EU27 average Disposition Time and 0.94 times the EU27 median Disposition Time. The situation is an improvement on the 157.8 days of 2008. At the same time, the

situation in 2010 is worsening compared to the 136.6 days in 2006. The Clearance Rate in 2010 is 96.0%, which means that the pending cases are increasing slightly and the situation is stable.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 330.0 days, which corresponds to 1.16 times the EU27 average Disposition Time and 1.53 times the EU27 median Disposition Time. The situation is worsening compared to the 303.7 days in 2008 and to the 157.2 days in 2006. The Clearance Rate in 2010 is 85.8%, which means that the pending cases are increasing and the number of resolved cases should be incremented to stabilise the situation.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean¹⁶⁰.

		Latvia			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property Starting business Licences	a	5	17	2.0	5	31	4.9
		4	16*	2.4	6	14	5.2
		1.5	21*	135	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate¹⁶¹.

		Latvia			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		3.0	13.0	56.2	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or

¹⁶⁰ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

¹⁶¹ See the methodological note for more details on this assessment.

below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Latvia	16.6	0.47%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Latvia is below the EU27 mean confronting it in terms of Euro per inhabitant while it is in line with the EU mean as % of public expenditure.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Latvia	21.2	21.6	93.4	61.0	2.9
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel and lawyers per 100,000 inhabitants, and the lawyers/professional judges ratio, are in line with the EU27 mean.

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four category are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Latvia	5.8	2.2
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, the number of other than criminal cases and the number of litigious Civil and commercial cases per 100 inhabitants are in line with the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Latvia	136.6	157.8	138.8	96.01%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is adequate, being below the EU27 mean and the Clearance Rate is about 100% (if a bit low) which means that the situation is stable and the system is capable of dealing with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Latvia	157.2	303.7	330.0	85.77%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is not adequate, being above the EU27 mean. The situation is worst compared to that of the previous years. Furthermore, the Clearance Rate in 2010 is below 90% which means that the situation is worsening and the system is not capable of dealing with incoming cases.

The efficiency of the system as far as the main categories of cases in first instance courts are concerned is between adequate and not adequate.

Additional strengths: non-litigious civil and commercial cases efficiency is good, there is an ongoing reform on mediation

Additional shortcomings: Administrative cases efficiency is not adequate but improving

7. RECOMMENDATIONS

Business-friendliness:

The time of insolvency and bankruptcy procedures should be sharply reduced with a duration of 2 years as an objective. The actual implementation of the new insolvency law should be monitored. The cost of such procedures should be diminished by 3 points to reach 10%.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Latvia, the court system is performing between adequate and not adequate. Productivity should be incremented in litigious civil and commercial cases.

Additional recommendations

ICT systems for case management and for communication between courts and their environment should be further improved.

Mediation reform should be monitored and evaluated to assess its impact.

ANNEX: COUNTRY-STATISTICS

First instance

Latvia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	21,686	17,463	1,409	NA	NA	NA	2,814	NA
	2008	23,110	17,319	1,436	NAP	NAP	NAP	4,355	NAP
	2010	42183	30569	5888	NAP	NAP	NAP	5726	NAP
Incoming (number of cases)	2006	57047	34,010	53,941	NA	NA	NA	3,104	NA
	2008	96783	50,318	104,363	NAP	NAP	NAP	4,196	NAP
	2010	129655	48284	76582	NAP	NAP	NAP	4789	NAP
Resolved (number of cases)	2006	57,291	35,972	55,258	NA	NA	NA	2,039	NA
	2008	83,706	36,914	85,902	NAP	NAP	NAP	3,050	NAP
	2010	124484	41411	78485	NAP	NAP	NAP	4588	NAP
Pending 31 Dec. (number of cases)	2006	21,442	15,496	2,063	NA	NA	NA	3,878	NA
	2008	36,187	30,718	681	NAP	NAP	NAP	4,783	NAP
	2010	47354	37442	3985	NAP	NAP	NAP	5927	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	100%	106%	102%	NA	NA	NA	66%	NA
CR	2008	86%	73%	82%	NA	NA	NA	73%	NA
CR	2010	96%	86%	102%	NA	NA	NA	96%	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	137	157	14	NA	NA	NA	694	NA
DT (Days)	2008	158	304	3	NA	NA	NA	572	NA
DT (Days)	2010	139	330	19	NA	NA	NA	472	NA

Second instance

Latvia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	3,896	2,721	46	NA	14	NA	1,115	NA
	2008	4,590	2946	80	NAP	56	NAP	1,422	NA
	2010	9633	2640	80	NA	NA	NAP	5726	NAP
Incoming (number of cases)	2006	6483	4,815	185	NA	200	NA	1,283	NA
	2008	6861	4,556	530	NAP	224	NAP	1,551	NA
	2010	11036	4180	423	NA	NA	NAP	4789	NAP
Resolved (number of cases)	2006	6,506	4,955	205	NA	188	NA	1,158	NA
	2008	6,435	4,133	599	NAP	260	NAP	1,443	NA
	2010	10759	4004	450	50	153	NAP	4588	NAP
Pending 31 Dec. (number of cases)	2006	3,868	2,576	26	NA	26	NA	1,240	NA
	2008	5,016	3,369	97	NAP	20	NAP	1,530	NA
	2010	10113	2816	53	NA	NA	NAP	5927	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	100%	103%	111%	NA	94%	NA	90%	NA
CR	2008	94%	91%	113%	NA	116%	NA	93%	NA
CR	2010	97%	96%	106%	NA	NA	NA	96%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	217	190	46	NA	50	NA	391	NA
DT (Days)	2008	285	298	59	NA	28	NA	387	NA
DT (Days)	2010	343	257	43	NA	NA	NA	472	NA

Highest instance

Latvia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	244	118	NA	NA	NA	NA	110	16
	2008	423	214	NAP	NAP	NAP	NAP	184	25
	2010	874	NA	NA	NA	NA	NA	256	NA
Incoming (number of cases)	2006	1690	994	NA	NA	NA	NA	613	83
	2008	1898	916	NAP	NAP	NAP	NAP	830	152
	2010	2349	NA	NA	NA	NA	NA	956	NA
Resolved (number of cases)	2006	1,551	908	NA	NA	NA	NA	569	74
	2008	1,579	717	NAP	NAP	NAP	NAP	739	123
	2010	2075	NA	NA	NA	28	NA	911	NA
Pending 31 Dec. (number of cases)	2006	383	204	NA	NA	NA	NA	154	25
	2008	742	413	NAP	NAP	NAP	NAP	275	54
	2010	1176	NA	NA	NA	NA	NA	301	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	92%	91%	NA	NA	NA	NA	93%	89%
CR	2008	83%	78%	NA	NA	NA	NA	89%	81%
CR	2010	88%	NA	NA	NA	NA	NA	95%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	90	82	NA	NA	NA	NA	99	123
DT (Days)	2008	172	210	NA	NA	NA	NA	136	160
DT (Days)	2010	207	NA	NA	NA	NA	NA	121	NA



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

LITHUANIA

Report
prepared by

Eric Dubois
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experts appointed by the Bureau of the CEPEJ

Report prepared for
the European Commission (Directorate General Justice)

16. LITHUANIA

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Lithuania	EU27 Mean	Lithuania	EU27 Mean
Number of procedures	3	5	0 (0%)	1 (27%)
Time (days)	3	31	0 (0%)	9 (26%)
Cost (% of property value)	1.1	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	0	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Lithuania	EU27 Mean	Lithuania	EU27 Mean
Number of procedures	6	6	0 (0%)	1 (16%)
Time (days)	22	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	2.6	5.2	0.0 (0%)	0.8 (24%)
% of procedures possible by Internet	50	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Lithuania	EU27 Mean
Time (years)	1.5	1.9
Cost (% of estate)	7.0	10.5
Recovery rate (%)	50.9	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	1631	1496
Number of firms	63840	NA
Ratio	2.6	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Lithuania	EU27 Mean
Number	3.4	5.1
Time (days)	47	39
Cost (€)	273	309

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹⁶² and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ¹⁶³
TOTAL annual approved budget allocated to the functioning of all courts	50,567,945	15.6	0.45%
Annual public budget allocated to (gross) salaries	34,853,452	10.7	0.31%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	779,367	0.2	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	211,886	0.1	0.00%
Annual public budget allocated to court buildings (maintenance, operating costs)	1,387,656	0.4	0.01%
Annual public budget allocated to investments in new (court) buildings	NAP	NA	NA
Annual public budget allocated to training and education	234,882	0.1	0.00%
Other	13,100,702	4.0	0.12%

The overall budget of the justice system is 155,377,083 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system and functioning of the Ministry of Justice (for the Supreme Court of Lithuania - 3032901 Euro, for the Supreme Administrative Court - 1540489 Euro, for the Court of Appeal of Lithuania - 2337233 Euro, for district and regional courts – 43422440 Euro, for Ministry of Justice - 18515118 Euro, for the National Courts Administration - 1992875 Euro).

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	767	767	1,660	9	264	118
Number / population *100,000	23.6	23.6	51.2	0.3	8.1	3.6
Number / State + Local annual expenditure in Billions	68.1	68.1	147.3	0.8	23.4	10.5

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

Judges

¹⁶² Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

¹⁶³ General government expenditure is based on 2010 Eurostat data.

There are 767 professional judges sitting in ordinary and administrative courts, including 636 at first instance, 94 at second instance and 37 at highest instance. In Lithuania, all judges sit in courts on a permanent basis. There are no non-professional judges.

Non-judge staff

Of the 2,489 non-judge staff units of personnel who are working in ordinary and administrative courts, for 1,211 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 704 (chancellors and their support, advisors of the chairman of the court, financiers, secretaries of administration of the courts, IT specialists, accountants, etc) are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Finally, there are 426 technical staff and another 148 other helping staff (civil servants and working under the labour agreement). In Lithuania, there is no Rechtspfleger or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 3.2.

Other actors of non-criminal justice system

Lawyers: there are 9 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC). In civil and administrative cases they have no monopoly on legal representation.

Notaries: they are private professionals under the authority of public authorities. Notaries have duties in the framework of civil procedure, in the field of legal advice and to certify the authenticity of legal deeds and certificates.

The Lithuanian Parliament (Seimas) had adopted several law amendments paving the way for reducing the role of notaries in registering of legal persons and entities. The move was introduced by the Ministry of Economy as means to improve the business environment in Lithuania and streamline the companies' establishment process. During the hearings at the Parliamentary Committees on Legal Affairs and Economics the Lithuanian Chamber of Notaries drew the attention to the threat of non-transparency and possibility of legal and financial violations as well as to long-term negative legal consequences that the new order would bring to the process of registering of legal persons. The adopted amendments will allow the Government to introduce the typical by-laws which could be registered online avoiding the notarial phase. As of July 1, 2009, the Centre of Registers has introduced the Public Electronic Service of the Real Estate Transactions (NETSVEP) at the most of notary offices.

Bailiffs acting as **enforcement agents:** enforcement agents are bailiffs practising as private professionals under the authority of public authorities. A bailiff must enforce judicial decisions prescribed by law that are executory, make material ascertainment issuing out of any court, serve, by court order, written proceedings issuing out of court on natural and legal persons in the Republic of Lithuania and perform any other duty prescribed by law. Bailiffs may provide, under the procedure established by law, the following services: 1) to keep/administer property during the process of execution; 2) to make material ascertainties, serve written proceedings issuing out of court on natural and legal persons in the Republic of Lithuania without court order; 3) to provide legal assistance; 4) to sell pledged movable property as collateral in auction; 5) to act as an agent in the efficiency of property obligations.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases/Professional Judges sitting in courts full time	Incoming first instance non criminal cases/Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases/ (judges and administrative personnel)
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The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management in more than 50% of courts, while there are electronic tools for tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Lithuania 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection, are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility of access to court electronic registers and using a service for the electronic processing of small claims are available in 100% of courts; the possibility to follow up on a case online and e-filing are available in more than 50% of courts; finally, the possibility to use a service for the electronic processing of undisputed debt recovery is available in less than 10% of courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹⁶⁴

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Lithuania	4.0	3.7	3.3	3.6

¹⁶⁴ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Lithuania	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	50	42	47	169
	DT 2008	45	55	NA	88
	DT 2010	43	55	NA	160
Second instance	DT 2006	177	186	NA	156
	DT 2008	210	109	NA	195
	DT 2010	193	191	NA	562
Highest instance	DT 2006	4	NA	NA	NA
	DT 2008	57	57	NA	NA
	DT 2010	144	144	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Lithuania	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	106.53%	101.90%	NA	83.47%
	Second	85.14%	84.26%	NA	63.82%
	Highest	85.20%	85.20%	NA	NA

Lithuania	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
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		other cases)			
Pending 31 Dec. (number of cases)	First	37645	31056	NA	2806
	Second	9002	5734	NA	2625
	Highest	222	222	NA	NAP

A more detailed analysis of the efficiency of first instance courts efficiency in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts efficiency are available in the annexed tables):

Overall, in the 2006-2010 period, the **total** number of other than criminal incoming cases rises by an average of 7.7% per year, from 221,185 in 2006 to 276,855 in 2008 to 297,765 in 2010, while the number of resolved cases rises by an average of 10.3% per year, from 213,940 in 2006 to 272,045 in 2008 to 317,205 in 2010. Disposition Time for other than criminal cases shows a stable situation, decreasing by an average of -3.7% per year, from 50 days in 2006 to 45 days in 2008 to 43 days in 2010.

At the same time, the number of incoming **litigious civil and commercial** cases rises by an average of 30.1% per year, from 70,284 in 2006 to 185,878 in 2008 to 201,585 in 2010, while the number of resolved cases also rises consistently, by an average of 30.3% per year, from 71,219 in 2006 to 180,071 in 2008 to 205,423 in 2010. Litigious civil and commercial cases Disposition Time shows a negative trend, increasing by an average of 7.4% per year, rising from 42 days in 2006 to 55.1 days in 2008 and stabilizing at 55.2 days in 2010. The number of **non-litigious civil and commercial** resolved cases decreases by an average of 8.7% per year, from 74,067 in 2006 to 51406 in 2010.

The number of incoming **administrative** cases decreases by an average of 26.8% per year, from 26,781 in 2006 to 4,703 in 2008 to 7,681 in 2010, while the number of resolved cases decreases by an average of 24.9% per year, from 20,123 in 2006 to 6,574 in 2008 to 6,411 in 2010. Disposition Time in administrative cases shows an overall average decrease of 1.4% per year from 169 days in 2006 to 160 days in 2010. At the same time, 2008 Disposition Time is 88 days.



Compared to first instance Disposition Time values for the same years,¹⁶⁵ Disposition Time of second instance courts in 2006, 2008 and 2010 for the total number of other than criminal cases values (177, 210 and 193 days respectively) and the 2006 and 2010 civil and commercial litigious cases values (186 and 191 days respectively) are high. Also 2008 and 2010 Administrative cases Disposition Time values (195 and 562 days) are comparatively high. All other available second instance Disposition Time values are in line with the first instance Disposition time in the same year.

As highest instance courts data are concerned, the 2006 Disposition Time the total number of other than criminal cases is comparatively low (though the value should be further checked), while the 2010 value is comparatively high (144 days). Also 2010 the civil and commercial litigious cases value is comparatively high while all other available values are in line with the first instance Disposition time values of the same year.

Q11: Number, average duration and costs of non-criminal¹⁶⁶ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	NA	NA	NA	NA	NA	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	NA	NA	51406	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	256829	NA	NA	NA	NA
litigious	34894	201585	205423	31056	55	101.9%	NA
non-litigious	NA	NA	51406	NA	NA	NA	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Lithuania

¹⁶⁵ Comparison with first instance DT has been done according to the following formulas:

For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

¹⁶⁶ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	256829	NA	NA	NA	NA
litigious	34894	201585	205423	31056	55	101.9%	NA
non-litigious	NA	NA	51406	NA	NA	NA	NA

In Lithuania, a private mediator, a court annexed mediation or a judge worked on civil and commercial cases, employment cases and family law cases (ex. divorce). Family law cases can also be worked on by public authority (other than a court). There is no mediation in administrative cases. A possibility to receive legal aid for mediation procedure does exist. There are 43 registered or accredited mediators who practice judicial mediation procedures in Lithuania.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure- First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA
2010	NA	NA	16846	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Lithuania

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Lithuania

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for Lithuania (UIHJ data)

According to the European Judicial Atlas in Civil Matters, in Lithuania no fees are charged for the services referred to in Article 11(2)(a).(Regulation 1393/2007)¹⁶⁷.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	121	224	335	10	11	149.6%	NA
2008	NA	NA	NA	NA	NA	NA	NA
2010	380	637	752	265	129	118.1%	NA

In 2010, the average length of proceedings in employment dismissal cases is not available. The % of pending cases for more than 3 years is not available.

The cases regarding employment procedure are not divided by disciplinary or economic basis in the statistical reports and informational system.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

A court system of the Republic of Lithuania is made up of **courts of general jurisdiction** and **courts of special jurisdiction**.

The Supreme Court of Lithuania (1), the Court of Appeal of Lithuania (1), regional courts (5) and district courts (54) are courts of general jurisdiction dealing with civil and criminal cases. District courts also hear cases of administrative offences coming within their jurisdiction by law. The regional courts, the Court of Appeal, the Supreme Court of Lithuania have the Civil Division and the Criminal Division. The Supreme Administrative Court of Lithuania (1) and regional administrative courts (5) are courts of special jurisdiction hearing disputes arising from administrative legal relations.

A district court is first instance for criminal, civil cases and cases of administrative offences (assigned to its jurisdiction by law), cases assigned to the jurisdiction of mortgage judges, as well as cases

¹⁶⁷ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_lt_en.jsp?countrySession=20&

relating to the enforcement of decisions and sentences. Judges of a district court also perform the functions of a pre-trial judge, an enforcement judge, as well as other functions assigned to a district court by law.

A regional court is first instance for criminal and civil cases assigned to its jurisdiction by law, and appeal instance for judgments, decisions, rulings and orders of district courts. The Chairman of a regional court organises and controls the administrative activities of district courts and their judges within the territory of his activities in accordance with the procedure prescribed by law.

The Court of Appeal is appeal instance for cases heard by regional courts as courts of first instance. It also hears requests for the recognition of decisions of foreign or international courts and foreign or international arbitration awards and their enforcement in the Republic of Lithuania, as well as performs other functions assigned to the jurisdiction of this court by law. The Chairman of the Court of Appeal organises and controls the administrative activities of the regional courts and their judges in accordance with the procedure prescribed by law.

The Supreme Court of Lithuania is the only court of cassation instance for reviewing effective judgments, decisions, rulings and orders of the courts of general jurisdiction. It develops a uniform court practice in the interpretation and application of laws and other legal acts.

A regional administrative court is the court of special jurisdiction established for hearing complaints (petitions) in respect of administrative acts and acts of commission or omission (failure to perform duties) by entities of public and internal administration. Regional administrative courts hear disputes in the field of public administration, deal with issues relating to the lawfulness of regulatory administrative acts, tax disputes, etc. Before applying to an administrative court, individual legal acts or actions taken by entities of public administration provided by law may be disputed in the pre-trial procedure. In this case disputes are investigated by municipal public administrative dispute commissions, district administrative dispute commissions and the Chief Administrative Dispute Commission.

The Supreme Administrative Court is first and final instance for administrative cases assigned to its jurisdiction by law. It is appeal instance for cases concerning decisions, rulings and orders of regional administrative courts, as well as for cases involving administrative offences from decisions of district courts. The Supreme Administrative Court is also instance for hearing, in cases specified by law, of petitions on the reopening of completed administrative cases, including cases of administrative offences. The Supreme Administrative Court develops a uniform practice of administrative courts in the interpretation and application of laws and other legal acts.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs. The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), pending cases and backlogs and productivity of judges and court staff. Performance targets are set at the level of the court (functions of the court administration). There are no specific quality standards for the Judicial System as a whole. There are quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time and monitor waiting time during court procedures is in place. National Courts Administration analyses the reasons of the prolonged hearings of cases. According to Article 104 of the Law on Courts the supervision of administrative activities of courts is performed: 1) of district courts - by the Chairman of the relevant regional court; 2) of regional administrative courts - by the Chairman of the Supreme Administrative Court; 3) of regional courts - by the Chairman of the Court of Appeals; 4) of all courts - by the Judicial Council (from 31 December, 2010).

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Lithuania	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of

decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

On 1 October, 2011, the Law amending the Code of Civil Procedure entered into force. The new legislation is a major modernization of the Code of Civil Procedure, replacing nearly 400 articles of the CCP.

On 1 January 2012, reform on public prosecution comes in to force. Territorial Prosecutor's Office will be organized for more efficient operation.

Moreover, recently Seimas of the Republic of Lithuania passed the decision of joining several courts. To be more precise, from 1 September 2012, four district courts of Vilnius city will be joined into one Vilnius city district court, two district courts of Kaunas city and Kaunas region will be joined into one Kaunas city district court and two district courts of Siauliai city and Siauliai region shall be joined into one Siauliai city district court. These developments will enable courts to function in more effective and transparent way, also ensuring the rights of people to be heard before the court.

Concerning the notaries: Pending parliamentary approval: The Ministry of Justice has introduced to the Seimas the package of law amendments regarding the mortgage system reform. According to the draft law, as of January 1, 2010 the current practice of double legal inquiry, carried out both hypothec judges and notaries, should be abolished. As part of implementation the "single counter" principle, the notaries would be enabled to register mortgages at the mortgage register by electronic means. As another part of the draft proposals, the notaries replace the function of judges issuing the executive clauses. Also it was proposed to abolish the notarization of movable property pawning.

The Ministry of Justice has introduced to the Seimas the package of Civil Code and other law amendments regarding civil status registration reform. According to the draft amendments, the notaries will be empowered to confirm the divorces without matters in dispute. The Lithuanian Catholic Church expressed its dissatisfaction upon the draft, asserting that the suggested order would compromise the family policy.

Pending Government's approval: The Ministry of Foreign Affairs currently is the only authority certifying the documents with Apostille. Draft amendment proposes empowering the notaries to certify the documents with Apostille.

Pending Minister of Justice's approval: The Ministry of Justice has prepared and introduced for deliberation the new, outlay-based system of notarial fees. The draft was heavily criticized by the Lithuanian Chamber of Notaries as endangering the whole system of Civil Law Notary in Lithuania and wrongly applying the free market model to the country's legal system. The Chamber drew the draft to the attention of Seimas' Committee on Legal Affairs. The MPs have criticized the Minister of Justice and obliged him to co-ordinate the proposal on notarial fees with the Chamber of Notaries.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Lithuania is 50,567,945 € (neither public prosecution nor legal aid budget is included). This correspond to 15.6 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.45% of the general

government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As human resources are concerned, Lithuania has 23.6 full time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 23.6 judges (this number includes full time professional judges, professional judges sitting in courts on an occasional basis, non professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 100.4 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 51.2, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full time professional judges is 2.2, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 first instance incoming other than criminal cases per 100 inhabitants is 9.2, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 6.2, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Lithuania is 43.3 days, which corresponds to 0.17 times the EU27 average Disposition Time and 0.29 times the EU27 median Disposition Time. The situation is an improvement on the 44.7 days in 2008 and to the 50.4 days in 2006. The Clearance Rate in 2010 is 106.5%, which means that the pending cases are decreasing and the situation is improving.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 55.2 days, which corresponds to 0.19 times the EU27 average Disposition Time and 0.26 times the EU27 median Disposition Time. The situation is worsening compared to the 55.1 days in 2008. At the same time, the situation in 2010 is worsening compared to the 41.5 days of 2006. The Clearance Rate in 2010 is 101.9%, which means that the pending cases are decreasing slightly and the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can

be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean¹⁶⁸.

		Lithuania			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	3	3	1.1	5	31	4.9
Starting business		6	22*	2.6	6	14	5.2
Licences		3.4	47*	273	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate¹⁶⁹.

		Lithuania			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		1.5	7.0	50.9	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Lithuania	15.6	0.45%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Lithuania is below the EU27 mean confronting it in terms of Euro per inhabitant while it is in line with the EU mean as % of public expenditure.

¹⁶⁸ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

¹⁶⁹ See the methodological note for more details on this assessment.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Lithuania	23.6	23.6	100.4	51.2	2.2
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges and administrative personnel per 100,000 inhabitants are in line with the EU27 mean. The number of lawyers per 100,000 inhabitants is low compared to the EU27 mean. The lawyers/professional judges ratio is low.

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Lithuania	9.2	6.2
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, while the number of other than criminal cases per 100 inhabitants is in line with the EU27 mean, the number of litigious civil and commercial cases is much higher.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Lithuania	50.4	44.7	43.3	106.53%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is good, below half that of the EU27 mean and the Clearance Rate is over 105% which means that the system is more than capable of dealing with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Lithuania	41.5	55.1	55.2	101.90%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is good, below half that of the EU27 mean and the Clearance Rate is about 100% which means that the situation is stable and the system is capable of dealing with incoming cases.

The efficiency of the system as far as the main categories of cases are concerned is good.

Additional strengths: ICT infrastructure is being developed, especially as communication between courts and parties is concerned

Additional Shortcomings: no data on mediation; no specific quality standards for the judicial system as a whole

7. RECOMMENDATIONS

Business-friendliness:

The time necessary to start a business should be sharply reduced with 2 weeks as an objective.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. Overall, in Lithuania, according to available data, the court system is performing well as efficiency is concerned, and no specific recommendation is required.

Additional recommendations:

The possibility to introduce quality standards for the judicial system as a whole should be explored.

Data collection on arbitration and mediation should be introduced.

ICT for the management of cases and the communication between courts and their environment can be improved. Innovation efforts should be monitored and can benefit from the experience of other EU member States not only for development but also for the implementation and adoption of the system.

ANNEX: COUNTRY-STATISTICS

First instance

Lithuania	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	22,299	9,038	8,282	NA	NA	NA	2,677	2,302
	2008	28,507	21,365	NA	NA	NA	NA	3,463	3,679
	2010	40239	34894	NA	NA	NA	NA	1536	3809
Incoming (number of cases)	2006	221185	70,284	75,421	NA	NA	NA	26,781	48,699
	2008	276855	185,878	NA	NA	NA	NA	4,703	86,274
	2010	297765	201585	NA	NA	NA	NA	7681	88499
Resolved (number of cases)	2006	213,940	71,219	74,067	NA	NA	NA	20,123	48,531
	2008	272,045	180,071	NA	NA	NA	NA	6,574	88525
	2010	317205	205423	51406	16846	NA	NA	6411	88525
Pending 31 Dec. (number of cases)	2006	29,544	8,103	9,636	NA	NA	NA	9,335	2,470
	2008	33,317	27,172	NA	NA	NA	NA	1,592	4,553
	2010	37645	31056	NA	NA	NA	NA	2806	3783

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	97%	101%	98%	NA	NA	NA	75%	100%
CR	2008	98%	97%	NA	NA	NA	NA	140%	103%
CR	2010	107%	102%	NA	NA	NA	NA	83%	100%

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	50	42	47	NA	NA	NA	169	19
DT (Days)	2008	45	55	NA	NA	NA	NA	88	19
DT (Days)	2010	43	55	NA	NA	NA	NA	160	16

Second instance

Lithuania	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	2,952	1,186	NA	NA	NA	NA	1,766	NA
	2008	4,331	1278	NA	NA	NA	NA	1,831	1222
	2010	6024	3693	NA	NA	NA	NA	1658	673
Incoming (number of cases)	2006	12661	7,071	NA	NA	NA	NA	5,590	NA
	2008	16752	8,548	NA	NA	NA	NA	2,824	5,380
	2010	20039	12971	NA	NA	NA	NA	2673	4395
Resolved (number of cases)	2006	7,128	3,087	NA	NA	NA	NA	4,401	NA
	2008	13,374	7,559	NA	NA	NA	NA	3,035	2,780
	2010	17061	10930	NA	NA	NA	NA	1706	4425
Pending 31 Dec. (number of cases)	2006	3,456	1,572	NA	NA	NA	NA	1,884	NA
	2008	7,709	2,267	NA	NA	NA	NA	1,620	3,822
	2010	9002	5734	NA	NA	NA	NA	2625	643

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	56%	44%	NA	NA	NA	NA	79%	NA
CR	2008	80%	88%	NA	NA	NA	NA	107%	52%
CR	2010	85%	84%	NA	NA	NA	NA	64%	101%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	177	186	NA	NA	NA	NA	156	NA
DT (Days)	2008	210	109	NA	NA	NA	NA	195	502
DT (Days)	2010	193	191	NA	NA	NA	NA	562	53

Highest instance

Lithuania	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	7	NA	NA	NA	NA	NA	NA	NA
	2008	211	211	NA	NA	NA	NA	NA	NA
	2010	124	124	NA	NA	NA	NA	NAP	NA
Incoming (number of cases)	2006	665	NA	NA	NA	NA	NA	NA	NA
	2008	496	496	NA	NA	NA	NA	NA	NA
	2010	662	662	NA	NA	NA	NA	NAP	NA
Resolved (number of cases)	2006	665	NA	NA	NA	NA	NA	NA	NA
	2008	611	611	NA	NA	NA	NA	NA	NA
	2010	564	564	NA	NA	NA	NA	NAP	NA
Pending 31 Dec. (number of cases)	2006	7	NA	NA	NA	NA	NA	NA	NA
	2008	96	96	NA	NA	NA	NA	NA	NA
	2010	222	222	NA	NA	NA	NA	NAP	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	100%	NA	NA	NA	NA	NA	NA	NA
CR	2008	123%	123%	NA	NA	NA	NA	NA	NA
CR	2010	85%	85%	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	4	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	57	57	NA	NA	NA	NA	NA	NA
DT (Days)	2010	144	144	NA	NA	NA	NA	NA	NA

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

LUXEMBOURG

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

17. LUXEMBOURG

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Luxembourg	EU27 Mean	Luxembourg	EU27 Mean
Number of procedures	8	5	0 (0%)	1 (27%)
Time (days)	28	31	0 (0%)	9 (26%)
Cost (% of property value)	10.0	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	NA	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Luxembourg	EU27 Mean	Luxembourg	EU27 Mean
Number of procedures	6	6	0 (0%)	1 (16%)
Time (days)	19	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	1.8	5.2	0.0 (0%)	0.8 (24%)
% of procedures possible by Internet	NA	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Luxembourg	EU27 Mean
Time (years)	2.0	1.9
Cost (% of estate)	15.0	10.5
Recovery rate (%)	43.5	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	918	918
Number of firms	29840	28598
Ratio	3.1	3.2

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Luxembourg	EU27 Mean
Number	5.4	5.1
Time (days)	44	39
Cost (€)	253	309

The OECD reports an index of 2 which places Luxembourg in the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹⁷⁰ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget ¹⁷¹	Budget in €	Budget in €/Population	% of general government expenditure ¹⁷²
TOTAL annual approved budget allocated to the functioning of all courts	70,458,676	137.7	0.41%
Annual public budget allocated to (gross) salaries	48,884,317	95.5	0.29%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	1,500,000	2.9	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	3,643,000	7.1	0.02%
Annual public budget allocated to court buildings (maintenance, operating costs)	596,100	1.2	0.003%
Annual public budget allocated to investments in new (court) buildings	NAP	NA	NA
Annual public budget allocated to training and education	119,500	0.2	0.001%
Other	15,715,759	30.7	0.09%

The overall budget of the justice system is 116,165,559 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, judicial protection of juveniles and functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	188	188	1,903	320	36	19
Number / population *100,000	36.7	36.7	371.8	62.5	7.0	3.7
Number / State + Local annual expenditure in Billions	11.0	11.0	111.4	18.7	2.1	1.1

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

¹⁷⁰ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

¹⁷¹ The budget of public prosecutor offices can not divided by the one of the courts

¹⁷² General government expenditure is based on 2010 Eurostat data.

Judges

There are 188 professional judges sitting in ordinary and administrative courts, including 148 at first instance and 40 at highest instance courts.

Non-judge staff

Of the 303 non-judge staff units of personnel who are working in ordinary and administrative courts, for 150 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Other 108 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Finally, there are 5 technical staff and other 40 other non-judge staff. In Luxembourg, there is no Rechtspfleger or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 1.6.

Other actors of the non-criminal justice system

Lawyers: there are 320 EU lawyers, established on the basis of Lawyers Directive 98/5 (303 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC) and 17 EU lawyers who have gained admission to the host member State under Art. 10 of Directive 98/5/EC). In civil and administrative cases, they have a monopoly on legal representation, although derogations are provided for by specific law dispositions and regulations (for example, appeals in the field of social security or businesses whose stake is less than 10000 EUR in the first instance courts).

Notaries: they are public agents. Notaries have duties in the framework of civil procedure, in the field of legal advice and to certify the authenticity of legal deeds and certificates.

Bailiffs acting as **enforcement agents:** enforcement agents are bailiffs practicing as private professionals under the authority of public authorities.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases/Professional Judges sitting in courts full time	Incoming first instance non criminal cases/Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases/ (judges and administrative personnel)
13	13	5

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Luxembourg 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility to follow up on a case online, access to court electronic registers, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are not available.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹⁷³

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Luxembourg	4.0	4.0	1.5	3.2
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

¹⁷³ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Luxembourg	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	159	200	NA	172
Second instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	412	NA	NA
	DT 2010	386	472	NA	NA
Highest instance	DT 2006	NA	NA	NA	NA
	DT 2008	255	255	NA	NA
	DT 2010	274	NA	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Luxembourg	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	165.28%	138.52%	NA	93.17%
	Second	94.93%	94.63%	NA	96.27%
	Highest	99.08%	NA	NA	NA

Luxembourg	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	1724	1595	NA	129
	Second	1483	1483	NAP	NA
	Highest	81	NA	NA	NA

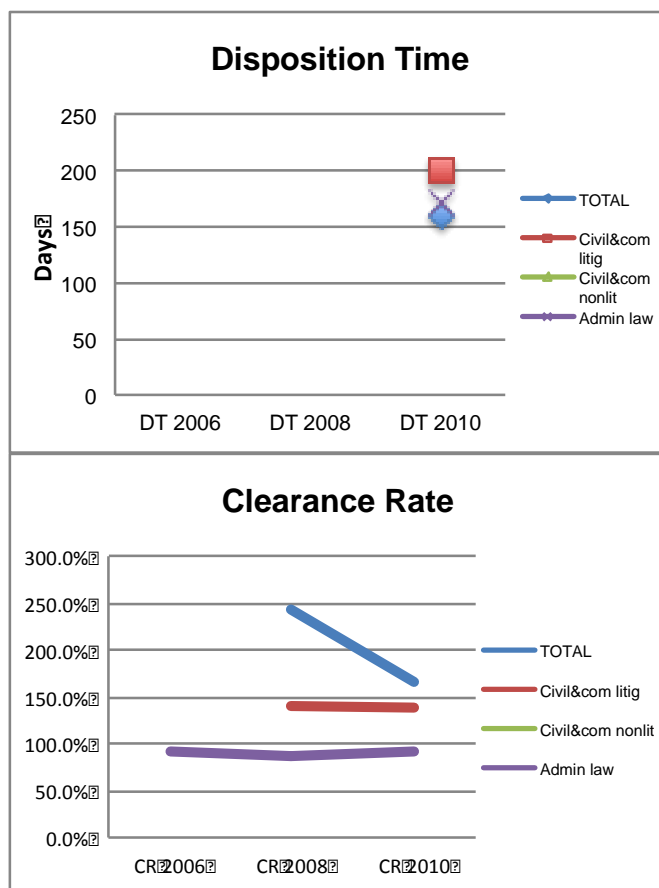
A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

In the period of 2008-2010, the **total** number of incoming other than criminal cases decreases by an average of 23.5% per year, from 4,098 in 2008 to 2,396 in 2010. The number of resolved cases decreases by an average of 36.8% per year, from 9,923 in 2008 to 3,960 in 2010. In 2010, the Disposition Time is 159 days, while it is not possible to calculate it for 2006 and 2008.

In the period of 2008-2010, the number of incoming **litigious civil and commercial** cases decreases by an average of 18.2% per year, from 3,144 in 2008 to 2,103 in 2010. The number of resolved cases

decreases by an average of 18.4% per year, from 4,378 in 2008 to 2,913 in 2010. In 2010, the Disposition Time for litigious civil and commercial cases is 200 days.

In the period 2006-2010, the number of incoming **administrative** cases decreases by an average of 26.9% per year, from 1,024 in 2006 to 954 in 2008 to 293 in 2010, while the number of resolved cases decreases by an average of 26.8% per year, from 949 in 2006 to 829 in 2008 to 273 in 2010. In 2010, the Disposition Time for administrative cases is 172 days.



Compared to first instance Disposition Time values for the same years,¹⁷⁴ Disposition Time of second instance courts in 2010 for the civil and commercial litigious cases values (472 days) is high. All other available second and highest instance Disposition Time values are in line with the first instance Disposition time values for the same year.

¹⁷⁴ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

Q11: Number, average duration and costs of non-criminal¹⁷⁵ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	NA	NA	NA	NA	NA	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	NA	NA	59477	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	2012	2103	2913	1595	200	138.5%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

For the purposes of the answer to this question, it was recognised that the concept of "small disputes" includes disputes involving the jurisdiction of magistrates' courts. In 2010, they have made a total of 59,477 orders for conditional payment. Added to 148 orders to pay (reglt. EC 1896/2006) issued on 190 applications and 35 decisions (of 42 requests) based on the reglt. EC 861/2007. Among other decisions of those courts, it is not possible to distinguish the nature of the disputes. The other boxes are therefore considered as NA.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

UIHJ data: the average duration of a procedure of recognition of a judgment under the Brussels I Regulation (Regulation (EC) 44/2001 of 22 December 2000) is 1 week for the recognition and 4 months for the execution, while its average cost is more or less 100 euros. On the other hand, the average duration of an exequatur procedure of a judgment in civil and commercial matter coming from a non-EU country is 12 months, and its average cost is more or less 1,500 euros.

If a decision taken in civil and commercial matter from another State of European Union has been recognised in Luxembourg under the Brussels I Regulation, and in absence of voluntary compliance by the debtor, the average percentage of decisions fully or partially enforced is unknown. The average percentage of decisions whose implementation has not been possible due to the failure of the debtor is unknown.

The causes that prevented the enforcement of the court decision are (from the least frequent to the most frequent cause): the debtor is insolvent; the debtor has left no forwarding address or no longer has a known address; it was impossible to obtain information about the debtor's assets, including their location; the debtor is subject to bankruptcy proceedings or an equivalent procedure; enforcement procedures in place were not successful for various reasons.

¹⁷⁵ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	2012	2103	2913	1595	200	138.5%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

In Luxembourg, a private mediator worked on civil and commercial cases, employment cases and family law cases (ex. divorce). A possibility to receive legal aid for mediation procedure does exist. The number of accredited or registered mediators who practice judicial mediation procedures is unknown. Mediation in civil and commercial matters was only introduced into Luxembourg's law by an Act dating of February 24, 2012. There is therefore no data available for 2010.

Article 429 of the Code of Civil Procedure makes provision for arbitration. The judge may propose conciliation to the parties.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure- First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

UIHJ data: enforcement proceedings in domestic law: the average length of enforcement proceedings in civil and commercial matter is 4 months. There is no maximum time to enforce a court decision in this matter. The enforcement agent in charge of enforcing a court decision can grant the debtor installments for the payment of the debt but only with the consent of the creditor. In this case, the average time granted to the debtor to execute the court decision is between 2 and 6 months.

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

UIHJ data: unknown

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

UIHJ data: in 2010, in accordance with Regulation (EC) No 1393/2007 of 13 November 2007, an unknown number of judicial and extrajudicial documents from another member State of the European Union are served in Luxembourg, with an average length 1 week. An unknown number of documents were transmitted in 2010 by Luxembourg to be served in another EU member State in accordance with Regulation (EC) No 1393/2007. According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is subject to a € 138 fixed fee¹⁷⁶.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA	NA
2010	NA	NA	1544	NA	NA	NA	NA

The average length of the employment dismissal procedure in 2010 is not available. The % of pending cases for more than 3 years is not available.

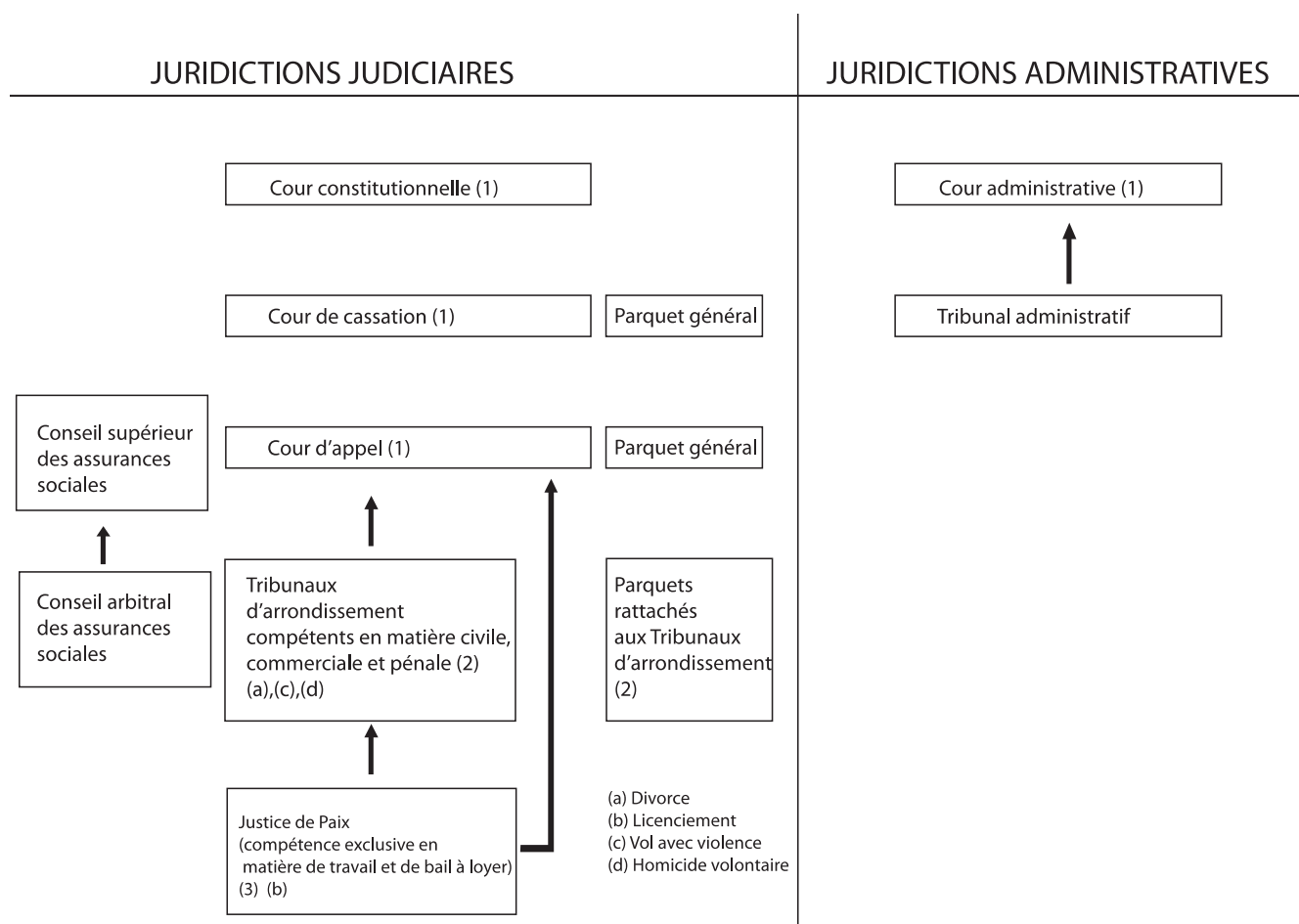
Data on employment dismissal procedure motivations is not collected.

¹⁷⁶ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_lu_en.jsp?countrySession=11&

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Luxembourg, there are 5 courts of first instance with general jurisdiction and 5 specialised courts of first instance including 2 commercial courts, 3 labour courts, 2 family courts, 3 rent and tenancies courts, 1 administrative courts and 1 insurance and/or social welfare courts. In view of Luxembourg's judicial organisation, it is important to note that most "specialised courts" have no independent existence, but are subdivisions or justices of the peace, or district courts. Only the administrative courts and social courts are considered "apart". This explains why the total categories below this question exceeds 5. The Superior Court includes an appeal court and a court of cassation. There is also an administrative court.



COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts or courts activities are not evaluated regularly. No performance targets are set at the level of the court and there are no specific quality standards for the judicial system as a whole. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. There are system to monitor civil and administrative backlogs and cases that are not processed within a reasonable time and no system to monitor waiting time during court procedures.

Country	Regular monitoring system of court activities	EU27	EU27
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	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010	Monitoring system of court activities Index in 2010	average of monitoring system of court activities Index in 2010	median of monitoring system of court activities Index in 2010
Luxembourg	Yes	Yes	No	No	No	0.4	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

Several reforms are envisaged: reform of the supreme courts and their functioning, the creation of a High Council of Justice, a bankruptcy reform and a reform of the enforcement of sentences. Several EU instruments and of the Council of Europe and the UN are in the process of ratification / implementation including the European directive on mediation in civil and commercial matters.

5. ANALYSYS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the calculated total annual approved budget allocated to all courts in Luxembourg (as the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%) is 48,570,247 € (neither public prosecution nor legal aid budget is included). This corresponds to 94.9 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The calculated total annual approved budget allocated to all courts is the 0.28% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Luxembourg has 36.7 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 36.7 judges (this number include full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 95.9 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 371.8, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 10.1, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been

definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 first instance incoming other than criminal cases per 100 inhabitants is 0.5, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of first instance incoming litigious civil and commercial cases per 100 inhabitants is 0.4, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Luxembourg is 158.9 days, which corresponds to 0.64 times the EU27 average Disposition Time and 1.08 times the EU27 median Disposition Time. The Clearance Rate in 2010 is 165.3%, which means that the pending cases are decreasing and the situation is improving.

As Disposition Time for the litigious civil and commercial cases is concerned, in 2010 it is 199.9 days, which corresponds to 0.70 times the EU27 average Disposition Time and 0.93 times the EU27 median Disposition Time. The Clearance Rate in 2010 is 138.5%, which means that the pending cases are decreasing and the situation is improving.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean¹⁷⁷.

	Luxembourg			EU27		
	Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	8	28	10.0	5	31	4.9
Starting business	6	19*	1.8	6	14	5.2
Licences	5.4	44*	253	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate¹⁷⁸.

¹⁷⁷ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

¹⁷⁸ See the methodological note for more details on this assessment.

	Luxembourg			EU27		
	Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy	2.0	15.0	43.5	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Calculated budget in Euro per inhabitant	Calculated courts per inhabitant	Calculated courts budget as % of public expenditure
Luxembourg	94.9		0.28%
EU 27 Average (AM)	41.7		0.44%
EU 27 Median	39.6		0.40%
EU 27 STDEV (S)	20.8		0.21%

The calculated budget¹⁷⁹ allocated to all courts Luxembourg is much higher than the EU27 mean confronting it in terms of Euro per inhabitant while it is in line with the EU mean as % of public expenditure.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Luxembourg	36.7	36.7	95.9	371.8	10.1
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges plus administrative personnel per 100,000 inhabitants are in line with the EU27 mean. The numbers of full-time professional judges and lawyers per 100,000 inhabitants are above the EU 27 mean. The lawyers/professional judges ratio is in line with the EU27 mean.

¹⁷⁹ As the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Luxembourg	0.5	0.4
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, the number of other than criminal cases and the number of litigious civil and commercial cases per 100 inhabitants are low if compared to the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
Luxembourg	NA	NA	158.9	165.28%
Average (AM) EU27	240.4	255.6	249.3	

Median EU27	136.6	147.7	147.4		
STDEV (S) EU27	242.3	263.9	272.3		

Disposition Time for other than criminal cases in first instance courts in 2010 is adequate, below the EU27 mean and the Clearance Rate is very high which means that the number of pending cases is decreasing and the situation is improving.

	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
First instance courts				
Luxembourg	NA	NA	199.9	138.52%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is adequate, below the EU27 mean and the Clearance Rate is very high which means that the number of pending cases is decreasing and the situation is improving.

The efficiency of the system as far as the main categories of cases are concerned is adequate and improving.

Additional Shortcomings: no data on mediation; no system for monitoring or evaluation.

7. RECOMMENDATIONS

Business-friendliness:

The procedure for registering property should be simplified by removing 2 or 3 steps. The cost necessary to register property should also be sharply reduced with a cost of 5% of the GNI as an objective. Moreover, the cost of insolvency and bankruptcy procedures should be diminished by about 5 points to reach 10%. The recovery rate from such procedures should also be increased by about 35 points to reach 80%.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system. Further investigation should be carried out to investigate the specific context.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. Overall, in Luxembourg, according to the available data, the court system is performing adequately and improving. No specific recommendation is required.

Additional recommendations:

The possibility to introduce a monitoring and evaluation system should be explored.

Data collection on arbitration and mediation should be introduced.

ICT systems for communication between courts and their environment should be developed.

Data collection can be improved in order to better monitor the efficiency of the system in specific case categories that can be confronted with other EU judicial systems.

ANNEX: COUNTRY-STATISTICS

First instance

Luxembourg	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NAP	NA	NA	NA
	2010	2124	2012	NA	NA	NAP	NAP	112	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	1,024	NA
	2008	4098	3,144	NA	NA	NAP	NA	954	NA
	2010	2396	2103	NA	NA	NAP	NA	293	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	949	NA
	2008	9,923	4,378	NA	NA	NAP	NA	829	774
	2010	3960	2913	NA	NA	NAP	NA	273	774
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NAP	NA	NA	NA
	2010	1724	1595	NA	NA	NAP	NA	129	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	93%	NA
CR	2008	242%	139%	NA	NA	NA	NA	87%	NA
CR	2010	165%	139%	NA	NA	NA	NA	93%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	159	200	NA	NA	NA	NA	172	NA

Second instance

Luxembourg	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	109	NA
	2008	NA	NA	NAP	NA	NAP	NA	NA	NA
	2010	2104	2104	NAP	NAP	NAP	NAP	NA	NAP
Incoming (number of cases)	2006	1206	NA	NA	NA	NA	NA	367	NA
	2008	1328	1,019	NA	NA	NAP	NA	309	NA
	2010	1479	1211	NAP	NAP	NAP	NAP	268	NAP
Resolved (number of cases)	2006	1,154	NA	NA	NA	NA	NA	311	NA
	2008	1,438	1,091	NA	NA	NAP	NA	347	NA
	2010	1404	1146	NAP	NAP	NAP	NAP	258	NAP
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	1,231	NA	NA	NAP	NA	NA	NA
	2010	1483	1483	NAP	NAP	NAP	NAP	NA	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	96%	NA	NA	NA	NA	NA	85%	NA
CR	2008	108%	107%	NA	NA	NA	NA	112%	NA
CR	2010	95%	95%	NA	NA	NA	NA	96%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	412	NA	NA	NA	NA	NA	NA
DT (Days)	2010	386	472	NA	NA	NA	NA	NA	NA

Highest instance

Luxembourg	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NAP	NA	NAP	NA
	2010	72	NA	NA	NA	NA	NA	NA	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	118	118	NA	NA	NAP	NA	NAP	NA
	2010	109	NA	NA	NA	NA	NA	NA	NA
Resolved (number of cases)	2006	62	NA	NA	NA	NA	NA	NA	NA
	2008	123	123	NA	NA	NAP	NA	NAP	NA
	2010	108	66	NA	NA	NA	NA	NA	NA
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	86	86	NA	NA	NAP	NA	NAP	NA
	2010	81	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	104%	104%	NA	NA	NA	NA	NA	NA
CR	2010	99%	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	255	255	NA	NA	NA	NA	NA	NA
DT (Days)	2010	274	NA	NA	NA	NA	NA	NA	NA

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

MALTA

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

18. MALTA

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Malta	EU27 Mean	Malta	EU27 Mean
Number of procedures	NA	5	NA (NA)	1 (27%)
Time (days)	NA	31	NA (NA)	9 (26%)
Cost (% of property value)	NA	4.9	NA (NA)	1.1 (21%)
% of procedures possible by Internet	NA	43	NA	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Malta	EU27 Mean	Malta	EU27 Mean
Number of procedures	NA	6	NA (NA)	1 (16%)
Time (days)	NA	14	NA (NA)	2 (17%)
Cost (% of per capita GNI)	NA	5.2	NA (NA)	0.8 (24%)
% of procedures possible by Internet	NA	83	NA	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Malta	EU27 Mean
Time (years)	NA	1.9
Cost (% of estate)	NA	10.5
Recovery rate (%)	NA	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	NA	NA
Number of firms	NA	NA
Ratio	NA	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Malta	EU27 Mean
Number	1.4	5.1
Time (days)	58	39
Cost (€)	501	309

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹⁸⁰ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ¹⁸¹
TOTAL annual approved budget allocated to the functioning of all courts	10,260,000	24.6	0.39%
Annual public budget allocated to (gross) salaries	7,151,000	17.1	0.27%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	1,308,000	3.1	0.05%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	1,399,000	3.3	0.05%
Annual public budget allocated to court buildings (maintenance, operating costs)	100,000	0.2	0.00%
Annual public budget allocated to investments in new (court) buildings	300,000	0.7	0.01%
Annual public budget allocated to training and education	2,000	0.005	0.0001%
Other	NAP	NA	NA

The overall budget of the justice system is 83,998,000 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, judicial protection of juveniles, functioning of the Ministry of Justice, refugees and asylum seekers and police force.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	39	39	1,200	NA	NA	20
Number / population *100,000	9.3	9.3	287.3	NA	NA	4.8
Number / State + Local annual expenditure in Billions	14.7	14.7	453.0	NA	NA	7.6

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

Judges

There are 39 professional judges sitting in ordinary and administrative courts, including 33 at first

¹⁸⁰ Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law.

¹⁸¹ General government expenditure is based on 2010 Eurostat data.

instance and 6 at second instance. There are no professional judges sitting in courts on an occasional basis and no non-professional judges performing various judicial functions.

Non-judge staff

Of the 374 non-judge staff units of personnel who are working in ordinary and administrative courts, for 274 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Other 100 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). In Malta, there exists no concept of Rechtspfleger. All executive actions which may be taken in pursual of an executive title obtained by courts or through any other legal instrument has to be executed by the Officials of the Courts, namely the Court Marshals, who have the assigned particular duties in the enforcement of Executive and Precautionary Warrants.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 9.6.

Other actors of the non-criminal justice system

Lawyers: in civil and administrative cases, they have a monopoly on legal representation, although derogations are provided for by specific law dispositions and regulations.

Notaries: notaries have duties in the framework of civil procedure and to certify the authenticity of legal deeds and certificates.

Bailiffs acting as **enforcement agents:** enforcement agents are bailiffs working in a public institution. They are actually the Court Marshals. Many are assigned to particular tasks of enforcement while others are assigned to assist the Judges and Magistrates.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases/Professional Judges sitting in courts full time	Incoming first instance non criminal cases/Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases/ (judges and administrative personnel)
131	131	12

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Malta 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility to follow up on a case online, access to court electronic registers, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are available in 100% of courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹⁸²

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Malta	4.0	4.0	4.0	4.0
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Malta	Year	TOTAL (civil&commercial+administrative+)	Civil&com litig (in days)	Civil&com nonlit (in	Admin law (in days)
-------	------	---	------------------------------	-------------------------	------------------------

¹⁸² ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

	other cases) (in days)		days)		
First instance	DT 2006	834	800	NA	NA
	DT 2008	928	889	NA	NA
	DT 2010	866	849	NA	2758
Second instance	DT 2006	NA	NA	NA	NA
	DT 2008	505	500	NA	NA
	DT 2010	470	470	NA	NA
Highest instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	598	NA	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Malta	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	88%	89%	NA	29%
	Second	98%	98%	NA	NA
	Highest	78%	NA	NA	NA

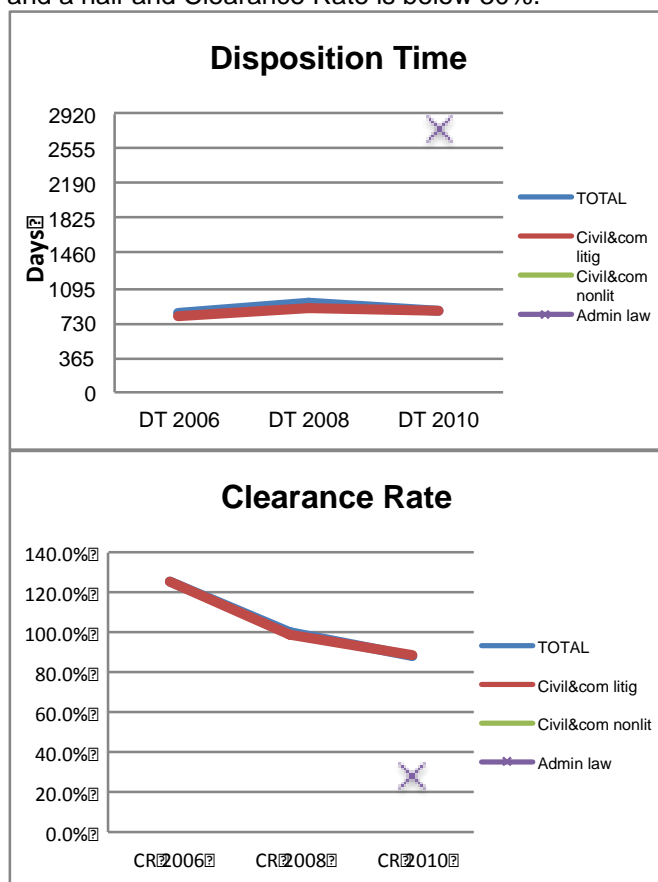
Malta	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	10641	10295	NA	136
	Second	808	808	NA	NA
	Highest	59	NA	NA	NA

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

In the period of 2006-2010, the **total** number of other than criminal incoming cases rises by an average of 8.1% per year, from 3,733 in 2006 to 4,067 in 2008 to 5,090 in 2010, while the number of resolved cases decreases by an average of 1.0% per year, from 4,663 in 2006 to 4,064 in 2008 to 4,485 in 2010. Disposition Time for other than criminal cases shows overall a slow (but inconsistent) rise of an average of 0.9% per year, from 834 days in 2006 to 928 days in 2008 to 866 days in 2010.

The number of incoming **litigious civil and commercial** cases rises by an average of 8.8% per year, from 3,567 in 2006 to 3,950 in 2008 to 4,994 in 2010, while the number of resolved cases decreases by an average of 0.4% per year, from 4,500 in 2006 to 3,901 in 2008 to 4,428 in 2010. Disposition Time for litigious civil and commercial cases shows a rise of an average of 1.5% per year, going initially up from 800 days in 2006 to 889 days in 2008 but then decreasing to 849 days in 2010.

Data for **administrative** cases is available only for 2010. While the number of cases is quite low (63 incoming, 18 resolved and 136 pending at the end of the year), Disposition Time is over seven years and a half and Clearance Rate is below 30%.



Compared to first instance Disposition Time values for the same years,¹⁸³ Disposition Time of second instance courts in 2008 and 2010 for the total number of other than criminal cases values (505 and 470 days respectively) and the 2008 and 2010 civil and commercial litigious cases values (500 and 470 days respectively) are low. The only other comparable value available, highest instance courts 2010 Disposition Time the total number of other than criminal cases is in line with the first instance Disposition time value of the same year.

Q11: Number, average duration and costs of non-criminal¹⁸⁴ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

¹⁸³ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Small claim (not Payment Order)	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Payment Order	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	9729	4994	4428	10295	849	88.7%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Malta

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
1. Civil mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
2. Family mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
3. Administrative mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
4. Employment dismissal mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	9729	4994	4428	10295	849	88.7%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

¹⁸⁴ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Source CEPEJ: in Malta, a court annexed mediation or a public authority (other than a court) worked on civil and commercial cases while family law cases (ex. divorce) were dealt with by a court annexed mediation or by a private mediator. A possibility to receive legal aid for mediation procedure does exist. Since persons entitled to receive legal aid may be assisted in all proceedings, they may also be assisted by a legal aid lawyer in court related mediation proceedings, but not in ADR proceedings. There are 50 accredited or registered mediators who practice judicial mediation in Malta.

Source: Malta's Mediation Center: no applications for mediation were received by or referred to the Malta Mediation Center during 2010. The average length of judicial mediation procedures, in other than criminal matters, is non-available as is the number of cases which are settled through judicial mediation in other than criminal matters. The Act regulating mediation in Malta has been recently amended in order to allow for more transparency in the mediation process and to transpose into national legislation the provisions of Council Directive 2008/52/EC of 21 May 2008 on certain aspects of mediation in civil and commercial matters.

For the average cost of judicial mediation procedure in other than criminal matters in Malta, see the annex 2 fees schedule (Legal Notice 309 of 2008 prescribing the tariff of fees charged by the Centre and Mediators for their services).

Concerning arbitration: it is mandatory in cases relating to traffic collision which do not exceed €11,600 in value and which do not include bodily injury. Furthermore, arbitration is mandatory in cases of condominium and contestations of water & electricity bills. Furthermore, parties may choose the arbitration in any litigious civil and commercial matter, provided that both parties agree.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure- First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Malta

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Malta

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for Malta

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

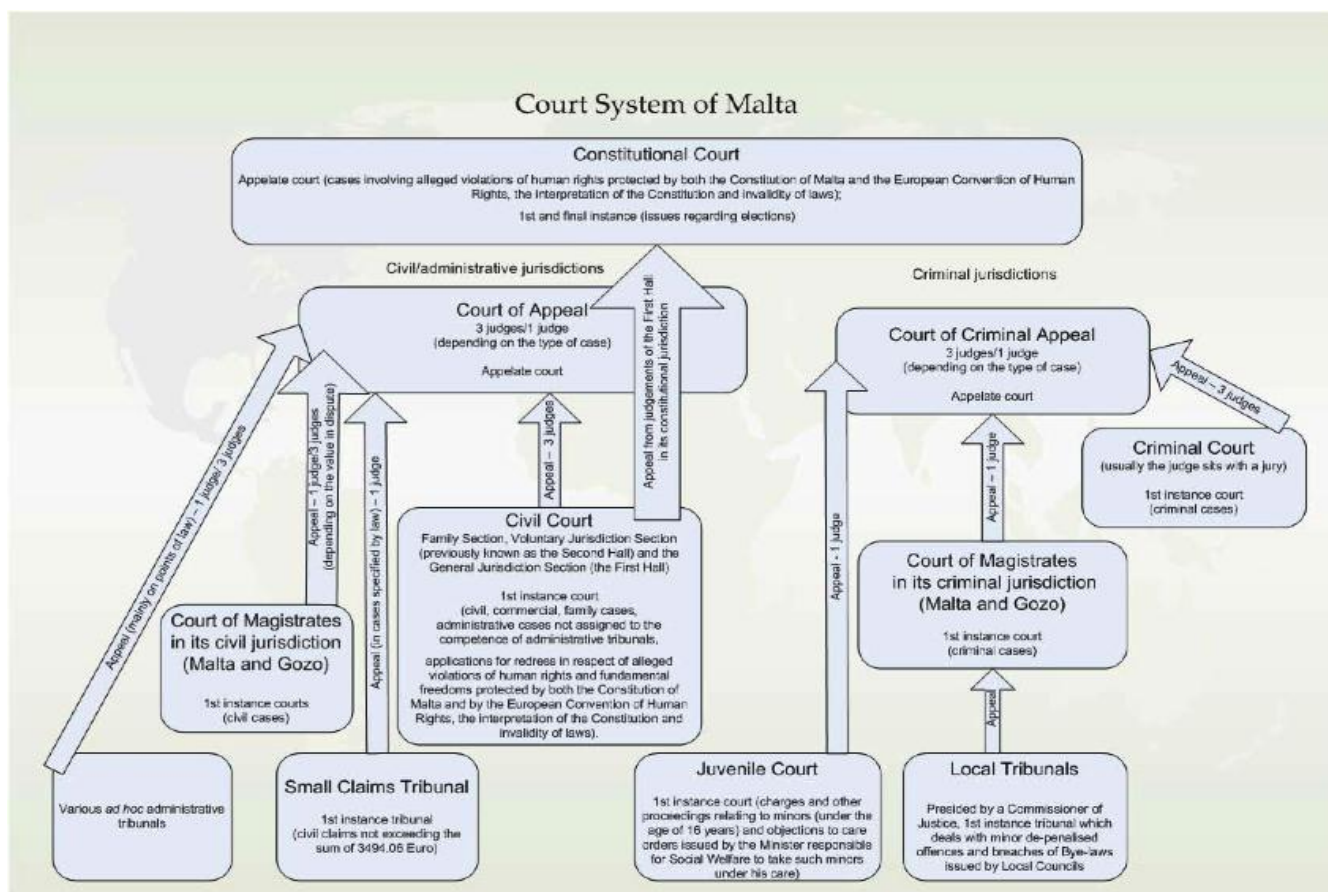
Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NAP	NAP	NAP	NAP	NA	NA	NAP
2008	NAP	NAP	NAP	NAP	NA	NA	NAP
2010	NA	NA	NA	NA	NA	NA	NA

The average length of proceedings in employment dismissal cases in 2010 is not available. The % of pending cases for more than 3 years is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

There is one court of first instance with general jurisdiction. In addition, there are three specialised courts, namely the Family Court, the Court of First Instance and the Administrative Tribunal. There are a couple of Tribunals: the Industrial Tribunal and the Small Claims Tribunal. There are also several Boards: the Land Arbitration Board, Rural Leases Control Board, Value Added Tax Board, Partition of Inheritance Board, Rent Regulation Board and the Commission for Fair Trading. In Malta, there is no Supreme Court. The Court of Appeal is the court of second instance. The Constitutional Court is presided over by 5 judges who compose the court of second instance also known as the Court of Appeal in its Superior Jurisdiction.



COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts or courts activities are not evaluated regularly in terms of performance and outputs. No performance targets are set at the level of the court and there are no quantitative performance targets (for instance, a number of cases to be addressed in a month) are defined for each judge. There are specific quality standards for the judicial system as a whole: there exists a Code of Ethics for the members of the judiciary which, though not providing for the organisation and quality of the judicial work, does lay upon the members of the judiciary certain obligations which are important in ensuring the transparency and independence of the judicial process. In addition, a system to monitor backlogs and cases that are not processed within a reasonable timeframe and monitor waiting time during court procedures is in place.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Malta	Yes	Yes	Yes	No	No	0.6	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

The functioning of the judicial system is subject to debates in Malta. Attempts were made in the past to control the actions of the members of the judiciary and a Code of Ethics has recently been approved by the Commission for the Administration of Justice. Amendments to the Code of Organisation and Civil Procedure were made recently in order to facilitate the enforcement of executive titles as well as to introduce a pre-trial stage so as to accelerate the judicial process. The number of judges and magistrates is always an issue of contestation as the Judicial Body complains that there should be more members of the judiciary. Amendments are presently discussed in order to improve the Code of Organisation and Civil Procedure. Discussions are also underway to improve the judicial system across the board.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Malta is 10,260,000 € (neither public prosecution nor legal aid budget is included). This corresponds to 24.6 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.39% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Malta has 9.3 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 9.3 judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and *Rechtspfleger* for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 98.9 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 287.3, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 30.8, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases, but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 1.2, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 1.2, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also

comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Malta is 866.0 days, which corresponds to 3.47 times the EU27 average Disposition Time and 5.87 times the EU27 median Disposition Time. The situation is an improvement on the 928.2 days in 2008. At the same time, the situation in 2010 is worsening compared to the 834.4 days in 2006. The Clearance Rate in 2010 is 88.1%, which means that the pending cases are increasing and the number of resolved cases should be increased.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 848.6 days, which corresponds to 2.99 times the EU27 average Disposition Time and 3.93 times the EU27 median Disposition Time. The situation is an improvement on the 888.9 days in 2008. At the same time, the situation in 2010 is worsening compared to the 799.7 days in 2006. The Clearance Rate in 2010 is 88.7%, which means that the pending cases are increasing and the number of resolved cases should be increased.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean¹⁸⁵.

		Malta			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property Starting business Licences	a	NA	NA	NA	5	31	4.9
		NA	NA*	NA	6	14	5.2
		1.4	58*	501	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate¹⁸⁶.

	Malta			EU27		
	Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy	NA	NA	NA	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

¹⁸⁵ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

¹⁸⁶ See the methodological note for more details on this assessment.

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Malta	24.6	0.39%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Malta is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Malta	9.3	9.3	98.9	287.3	30.8
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of professional judges and administrative personnel per 100,000 inhabitants, are in line with the EU27 mean. The number of lawyers per 100,000 inhabitants is high compared to the EU 27 mean, and the lawyers/professional judges ratio, while in line with the EU27 mean, is on the high end.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Malta	1.2	1.2
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, the number of other than criminal cases and the number of litigious civil and commercial cases per 100 inhabitants are in line with the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
Malta	834.4	928.2	866.0	88.11%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is bad, consistently higher than the EU27 mean and the Clearance Rate is also negative, being below 90% which means that the system is not capable of dealing with incoming cases.

	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
First instance courts				
Malta	799.7	888.9	848.6	88.67%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is bad, consistently higher than the EU27 mean and the Clearance Rate is also negative, being below 90% which means that the system is not capable of dealing with incoming cases.

The system efficiency as the main categories is bad.

Additional Shortcomings: administrative cases situation is also particularly bad even if absolute numbers are low.

Data on standard more specific EU case categories is not available.

7. RECOMMENDATIONS

Business-friendliness:

No recommendation due to lack of data except for the licences system. The time required to obtain all the licences necessary to operate should be sharply reduced, as the cost of such licences.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system..

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance.

In particular, in Malta, according to available data, the court system is not performing adequately and needs improvement. Effective mechanisms for the monitoring and evaluation of courts efficiency need to be introduced. Efforts need to be done to increase productivity, including through more active case management.

Additional recommendations:

Data collection can be improved in order to better monitor the efficiency of the system in specific case categories that can be confronted with other EU judicial systems. Data collection can be improved in order to better monitor the efficiency of the system, including the monitoring of the number of hearings per category of cases.

Mediation should be developed and sustained.

ANNEX: COUNTRY-STATISTICS

First instance

Malta	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	11,590	10,792	NAP	NA	798	NAP	NA	NA
	2008	10,417	9,536	NAP	NA	881	NAP	NA	NA
	2010	10,022	9,729	NA	NA	216	NA	91	NA
Incoming (number of cases)	2006	3,733	3,567	NAP	NA	166	NAP	NA	NA
	2008	4,067	3,950	NAP	NA	117	NAP	NA	NA
	2010	5,090	4,994	NA	NA	33	NA	63	NA
Resolved (number of cases)	2006	4,663	4,500	NAP	NA	163	NAP	NA	NA
	2008	4,064	3,901	NAP	NA	163	NAP	NA	NA
	2010	4,485	4,428	NA	NA	39	NA	18	NA
Pending 31 Dec. (number of cases)	2006	10,660	9,859	NAP	NA	801	NAP	NA	NA
	2008	10,335	9,500	NAP	NA	835	NAP	NA	NA
	2010	10,641	10,295	NA	NA	210	NA	136	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	125%	126%	NA	NA	98%	NA	NA	NA
CR	2008	100%	99%	NA	NA	139%	NA	NA	NA
CR	2010	88%	89%	NA	NA	118%	NA	29%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	834	800	NA	NA	1794	NA	NA	NA
DT (Days)	2008	928	889	NA	NA	1870	NA	NA	NA
DT (Days)	2010	866	849	NA	NA	1965	NA	2758	NA

Second instance

Malta	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	1,162	NA	NA	NA	NA	NA	NA	NA
	2008	1,061	1,023	NA	NA	NA	NAP	NA	38
	2010	797	797	NA	NA	NA	NA	NA	NA
Incoming (number of cases)	2006	706	NA	NA	NA	NA	NA	NA	NA
	2008	578	542	NAP	NA	NA	NAP	NA	36
	2010	639	639	NA	NA	NA	NA	NA	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	697	670	NAP	NA	NA	NAP	NA	27
	2010	628	628	NA	NA	NA	NA	NA	NA
Pending 31 Dec. (number of cases)	2006	1,149	NA	NA	NA	NA	NA	NA	NA
	2008	965	918	NAP	NA	NA	NAP	NA	47
	2010	808	808	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	121%	124%	NA	NA	NA	NA	NA	75%
CR	2010	98%	98%	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	505	500	NA	NA	NA	NA	NA	635
DT (Days)	2010	470	470	NA	NA	NA	NA	NA	NA

Highest instance

Malta	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	43	NA	NA	NA	NA	NA	NA	NA
	2008	NAP	NA	NA	NA	NA	NA	NA	NA
	2010	49	NA	NA	NA	NA	NA	NA	49
Incoming (number of cases)	2006	31	NA	NA	NA	NA	NA	NA	NA
	2008	NAP	NA	NA	NA	NA	NA	NA	NA
	2010	46	NA	NA	NA	NA	NA	NA	46
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NAP	NA	NA	NA	NA	NA	NA	NA
	2010	36	NA	NA	NA	NA	NA	NA	36
Pending 31 Dec. (number of cases)	2006	37	NA	NA	NA	NA	NA	NA	NA
	2008	NAP	NA	NA	NA	NA	NA	NA	NA
	2010	59	NA	NA	NA	NA	NA	NA	59

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	78%	NA	NA	NA	NA	NA	NA	78%

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	598	NA	NA	NA	NA	NA	NA	598

ANNEX 2: FEES SCHEDULE

L.N. 309 of 2008
MEDIATION ACT
(CAP. 474)

Mediation Act (Tariff of Fees) Regulations, 2008

BY VIRTUE of the powers conferred by articles 15 and 30 of the Mediation Act (Cap. 474), the Minister responsible for justice, after consultation with the Malta Mediation Centre, has made the following regulations:

1. (1) The title of these regulations is the Mediation Act (Tariff of Fees) Regulations, 2008.

(2) These regulations shall come into force on the 1st December, 2008.

2. A non-refundable fee, hereinafter referred to as "the registration fee" shall become payable to the Malta Mediation Centre, hereinafter referred to as "the Centre", for disputes referred to the Centre. The applicable registration fees shall be as follows:

(a) for disputes referred to the Centre after litigious proceedings would have already commenced in a Court or other adjudicatory authority, whether such dispute is referred to the Centre by such Court or other adjudicatory authority or by the parties to the proceedings, the applicable registration fee shall be 50 euro;

(b) for disputes that are referred to the Centre voluntarily by the mediation parties or according to law, the applicable registration fees shall be as follows:

(i) for family mediations 35 euro;

(ii) for mediations involving voluntary organisations as defined by article 3 of the Voluntary Organisations Act 35 euro;

(iii) for mediations involving any other authority, in all cases 50 euro;

(iv) for disputes that do not involve a monetary value 70 euro; and

(v) for all other disputes 120 euro.

3. (1) The Board of Governors of the Centre shall in all cases have the authority to determine, on the basis of the provisions of these regulations, the registration fee payable in connection with a

particular referral for mediation.

(2) The authority granted to the Board of Governors of the Centre according to subregulation (1) may be designated to, and accordingly become exercisable by, the Registrar of the Centre

(3) All registration fees shall become payable to the Centre upon the referral being made and in any event before the commencement of the mediation process.

4. Mediators shall be entitled to receive such fees, established prior to the commencement of proceedings, from the parties to the mediation as may be agreed in writing between the mediator and the parties; in the absence of an agreement as aforesaid mediators shall be entitled to a fee computed on the basis of a flat rate of 50 euro per hour, excluding value added tax.

5. The registration fee due to the Centre shall be paid in advance and the Centre shall not be obliged to appoint a mediator or in any manner to take cognizance of any case referred to it unless full payment of the fees has been effected.

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

NETHERLANDS

Report
prepared by

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experts appointed by the Bureau of the CEPEJ

Report prepared for
the European Commission (Directorate General Justice)

19. NETHERLANDS

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Netherlands	EU27 Mean	Netherlands	EU27 Mean
Number of procedures	5	5	4 (80%)	1 (27%)
Time (days)	5	31	4 (80%)	9 (26%)
Cost (% of property value)	6.0	4.9	6.0 (100%)	1.1 (21%)
% of procedures possible by Internet	100	43	100	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Netherlands	EU27 Mean	Netherlands	EU27 Mean
Number of procedures	6	6	2 (33%)	1 (16%)
Time (days)	13	14	4 (31%)	2 (17%)
Cost (% of per capita GNI)	5.1	5.2	4.8 (94%)	0.8 (24%)
% of procedures possible by Internet	100	83	100	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Netherlands	EU27 Mean
Time (years)	1.1	1.9
Cost (% of estate)	4.0	10.5
Recovery rate (%)	87.7	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	7268	7340
Number of firms	863840	843678
Ratio	0.8	0.9

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Netherlands	EU27 Mean
Number	5.0	5.1
Time (days)	44	39
Cost (€)	263	309

The OECD reports an index of 0 which places Netherlands below the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹⁸⁷ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ¹⁸⁸
TOTAL annual approved budget allocated to the functioning of all courts	990,667,000	59.5	0.33%
Annual public budget allocated to (gross) salaries	733,603,000	44.0	0.24%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	98,485,000	5.9	0.03%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	3,673,000	0.2	0.001%
Annual public budget allocated to court buildings (maintenance, operating costs)	109,615,000	6.6	0.04%
Annual public budget allocated to investments in new (court) buildings	NAP	NA	NA
Annual public budget allocated to training and education	20,522,000	1.2	0.01%
Other	24,769,000	1.5	0.01%

The overall budget of the justice system is 6,098,900,000 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, Council of the judiciary, judicial protection of juveniles, functioning of the Ministry of Justice and refugees and asylum seekers. The public budget allocated to the functioning of the courts for civil law is 478 mln euros and for the administrative law 274 mln euros.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	2,530	3,430	16,728	NA	3,347	949
Number / population	15.2	20.6	100.4	NA	20.1	5.7

¹⁸⁷ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

¹⁸⁸ General government expenditure is based on 2010 Eurostat data.

*100,000					
Number / State + Local annual expenditure in Billions	8.4	11.4	55.5	NA	11.1
					3.2

Number of European lawyers acting before a national court on a cross border basis (directive 77/249): data non available

Judges

There are 2,530 professional judges sitting in ordinary and administrative courts, including 1,944 at first instance, 548 at second instance and 38 at highest instance. Furthermore, there are 900 professional judges sitting in courts on an occasional basis. There are no non-professional judges performing various judicial functions in the Netherlands.

Non-judge staff

There are 7493 non-judge staff units of personnel who are working in ordinary and administrative courts. In the Netherlands there is no Rechtspfleger or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 2.6.

Other actors of the non-criminal justice system

Lawyers: in civil cases they have a monopoly on legal representation but not in administrative cases.

Notaries: they are private professionals under the authority of public authorities. The services they provide include the certification of authenticity of legal deeds and certificates. They have a monopoly for amongst others: conveying real property, creating or cancelling mortgages, drawing up or altering wills, drawing up marriage contracts, incorporating public and private limited liability companies, establishing foundations or associations. There are 3,347 notaries in the Netherlands but the number of junior notaries decreased because of the decreasing number of real estate and mortgage deeds.

Bailiffs acting as **enforcement agents:** there are 949 enforcement agents in the Netherlands (384 bailiffs and 565 junior bailiffs). There are bailiffs practicing as private professionals under the authority of public authorities or bailiffs working in a public institution. For tax matters, there are special Tax Bailiffs (not including in the number provided). Concerning the costs, administrative costs and other 'extra's' charged by enforcement agents are less transparent. In 2011 new regulations have been designed regarding the costs charged in the enforcement process.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases/Professional Judges sitting in courts full time	Incoming first instance non criminal cases/Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases/ (judges and administrative personnel)
574	423	144

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been

solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Netherlands 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, e-mail, Internet connection, are available in 100% of courts, while electronic files are available in less than 10% of courts. As to the electronic communication between courts and their institutional environment, the possibility to follow up on a case online and access to court electronic registers are available in 100% of courts; the possibility to use a service for the electronic processing of small claims and undisputed debt recovery and e-filing are not available.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹⁸⁹

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Netherlands	4.0	4.0	2.5	3.5
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

¹⁸⁹ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Netherlands	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	68	NA	NA	159
Second instance	DT 2006	NA	259	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	388	NA	NA	423
Highest instance	DT 2006	NA	NA	NA	95
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

The number of hearings is not available for the Netherlands.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Netherlands	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	101%	NA	NA	106.7%
	Second	106%	NA	NA	101.4%
	Highest	96%	NA	NA	106.1%

Netherlands	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	274170	NA	NA	53410
	Second	29610	NA	NA	12990
	Highest	NA	NA	NA	NA

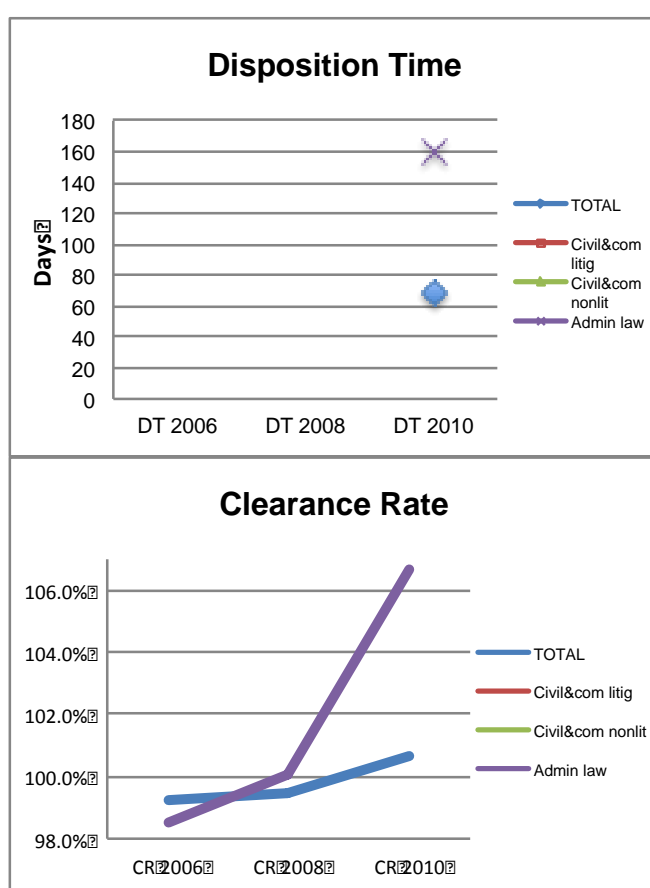
A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

Overall, in the 2006-2010 period, the **total** number of other than criminal incoming cases rises by an average of 4.9% per year, from 1,197,690 in 2006 to 1,270,290 in 2008 to 1,451,879 in 2010, while the number of resolved cases rises by an average of 5.3% per year, from 1,188,670 in 2006 to

1,263,920 in 2008 to 1,461,153 in 2010. Disposition Time be calculated only for 2010 and is of 68 days while the Clearance Rate in the period 2006-2010 is quite stable, with a variation between 99.2% in 2006 and 100.6% in 2010.

For **civil and commercial** cases, only the number of resolved cases is available for the period 2006-2010. In the case of **litigious** cases, resolved initially decreases from 230,000 in 2006 to 200,000 in 2008 to rise again to 208,805 in 2010. The number of **non-litigious** cases instead increases from 943,000 in 2006 to 947,570 in 2008 and up to 1,130,075 in 2010. Overall, in 2010, the number of civil and commercial pending cases slightly decreases from 227,000 on the first of January to 221,000 on the 31 of December.

The number of incoming **administrative** cases decreases by an average of 5.8% per year, from 145,660 in 2006 to 116,290 in 2008 to 114,638 in 2010, while the number of resolved cases decreases by an average of 3.9% per year, from 143,500 in 2006 to 116,350 in 2008 to 122,273 in 2010. Disposition Time be calculated only for 2010 and is of 159 days while the Clearance Rate in the period 2006-2010 rises from 98.5% in 2006 to 100.1% in 2008 to 106.7 in 2010.



Compared to first instance Disposition Time values for the same years,¹⁹⁰ Disposition Time of second instance courts in 2010 for the total number of other than criminal cases (388 days) and 2010

¹⁹⁰ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

administrative cases Disposition Time (423 days) are high. The other available second and highest instance Disposition Time values are not comparable with the first instance Disposition time value of the same year.

Q11: Number, average duration and costs of non-criminal¹⁹¹ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NAP	NAP	NAP	NAP	NA	NA	NAP
Small claim (not Payment Order)	NAP	NAP	NAP	NAP	NA	NA	NAP
Payment Order	NAP	NAP	NAP	NAP	NA	NA	NAP

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	NA	NA	NA	NA	NA	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for the Netherlands

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec.'10 (number of cases)
Total number (1+2+3+4)	3,880	3,557	1,772	NA	NA	NA	NA
1. Civil mediation	461	421	197	NA	NA	NA	NA
2. Family	2,537	2,317	1,019	NA	NA	NA	NA

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

¹⁹¹ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

mediation							
3. Administrative mediation	882	819	556	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

Civil cases include employment dismissals cases. It is not possible anymore to provide this number. Only the total number of civil cases is known. The numbers given are excluding mediation cases at 2nd instance courts. These numbers for 2010 are: 57 incoming, 48 resolved, and 30 (63%) completely settled through mediation. These 2nd instance mediation cases could not be presented per civil, family, administrative or employment dismissal (or other classification).

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	NA	NA	NA	NA	NA	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

In the Netherlands, a court annexed mediation or a private mediator worked on civil and commercial cases, administrative cases, employment cases and family law cases (ex. divorce). A possibility to receive legal aid for mediation procedure does exist. From April 2005 until January 2011, parties who were referred to mediation via the Courts and who were not eligible for legal aid, could apply for an incentive contribution (stimuleringsbijdrage). This contribution covered both parties' expenses for the first 2.5 hours of mediation. The incentive contribution stopped in January 2011. Actually, citizens of limited means qualify for a contribution towards the costs of mediation, referred to as a mediation legal aid permit. It is part of the Legal Aid Act. In 2010, citizens had to pay 49 euros for four hours of mediation. And another 49 euros for four extra hours. In 2010, there are 4015 mediators registered at the Dutch Mediation Institute (NMI). These mediators can do judicial mediation as well as other forms of mediation.

Other data (from CEPEJ):

In 2010, the Legal Counter [Het Juridisch Loket] referred 2.345 cases to mediation.

Binding advice in consumer cases: consumer complaints board. In 2010 7826 incoming cases.

Binding advice in insurance cases: KIFID. In 2010 6719 cases.

Binding advice in rental cases: Huurcommissie. In 2010 11428 incoming cases.

Arbitration in construction cases: Raad van Arbitrage voor de bouw. In 2010 1306 cases

National ombudsperson: 14311 cases in 2010.

Concerning arbitration:

	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time	Clearance Rate (%)	Court fees (€)
Arbitration cases	NA	125	33	92	9.5 months	NA	450-15,000

There are formal arbitration procedures. These are independent and separate from court proceedings. The number of incoming cases is excluding 1306 Arbitration cases by the Council for arbitration construction ("Raad van arbitrage voor de bouw"). In 2010, there were 1306 resolved cases. The number of average pending cases and average lengths and costs for these cases are not known. However, these numbers mentioned in the table and in this comment do not cover all formal arbitration procedures in the Netherlands. Values of other arbitration procedures are not known.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NAP	NAP	NAP	NAP	NA	NA
2010	NAP	NAP	NAP	NAP	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for the Netherlands

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for the Netherlands

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for the Netherlands (UIHJ data)

According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is subject to a fixed fee for the costs of recourse to a judicial officer or to a person competent under the law of the member State addressed has been set at €65192.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	66 295	65 788	NA	NA	NA	NA
2008	NA	NA	4 350	NA	NA	NA	NA
2010	NA	22132	22239	NA	NA	100.5%	NA

¹⁹² http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_nl_en.jsp?countrySession=8&

In 2010, the average length of proceedings in the employment dismissal cases is of 21 days in 1st instance courts. The % of pending cases for more than 3 years is not available. In the Netherlands, more information on the category of a case can only be known on the basis of articles of law. A dismissal case has its own specific article but no sub articles which might be of help here. Therefore the information on dismissal motivations is NA.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In the Netherlands, there are 19 courts of first instance (district courts) with general jurisdiction, 1 specialised first instance court Trade and Industry Tribunal (College van Beroep voor het bedrijfsleven (CBb)), 1 Central Appeals Tribunal (Centrale Raad van Beroep (CRvB)), 5 general appeal (second instance) courts, 1 Supreme Court and 1 High Court/Council (Hoge Raad en Raad van State). The 19 district courts also have 35 separate "kanton" locations, that are not separate legal entities. There are specialised chambers within certain courts, for instance a military tribunal at the court of Arnhem, but they are not legal entities.

The Netherlands is divided into 19 districts, each with its own court. Each district court is made up of a maximum of five sectors, which always include the administrative law, civil law, criminal law and sub-district law sector. Appeals against judgements passed by the district court in civil and criminal law cases can be lodged at the competent Court of Appeal (there are five Courts of Appeal in total); appeals against administrative law judgements at the competent specialised administrative law tribunal - the Administrative Jurisdiction Division of the Council of State, the Central Appeals Tribunal or the Trade and Industry Appeals Tribunal, also known as Administrative High Court for Trade and Industry, depending on the type of case. Appeals in cassation in civil, criminal and tax law cases are lodged at the Supreme Court of the Netherlands. (Source: <http://www.rechtspraak.nl/Pages/default.aspx>)

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The council of the Judiciary collects the data, both for internal planning and control, and communication with Department of Justice. Also the Dutch Central Bureau of Statistics collects data, either directly from the courts and in some instances from the Council of the Judiciary. The performance of the courts is evaluated regularly in terms of performance and outputs. In terms of number of cases and finance, all courts are subject to a planning and control cycle, whereby the courts provide data 3 times per year. Other performance indicators are monitored annually in a quality control system. The main performance indicators at the level of the court system are: length of proceedings (timeframes), closed cases, percentage of cases that are processed by a single sitting judge and satisfaction of users (regarding the services delivered by the courts). Performance targets are set at the level of the court, the main targets of the courts are related to the number of cases handled. There are specific quality standards for the judicial system as a whole: there are quality standards which are measured by annual statistical figures per individual court. Examples are the scores of customer satisfaction surveys, the percentage of cases judged by three instead of one judge and case processing times (the so called 'Kengetallen gerechten'). There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor cases that are not processed within a reasonable time and monitor waiting time during court procedures is in place. Concerning the evaluation of the overall functioning of the courts on the basis of an evaluation plan agreed beforehand, there is a planning and control cycle (3 times per year) which involves financial/accounting evaluation but also visits ('bestuurlijke overleggen'), there is once per year an accountant check of the annual report (per court and for total of 19 district courts, 5 general appeal courts and 2 specialised courts (Trade and Industry Tribunal (CBb) and Central Appeals Tribunal (CRvB)), and once every 4 years there is a round of visitations.

Country	Regular monitoring system of court activities	EU27	EU27
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	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010	Monitoring system of court activities Index in 2010	average of monitoring system of court activities Index in 2010	median of monitoring system of court activities Index in 2010
Netherlands	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

Reform plan: several measures are introduced to keep the budget in control as well as to improve and innovate within the Dutch judicial system: more cost covering court fees; an innovationprogramm on E-Justice, simplifying procedures and ADR; revising and make congruent the map of the judiciary, prosecution and police; adjusting and modernise the legal aid system.

Revising the judicial map: Parliament has decided that from 1-1-2013 the courts wil move to a new administrative structure with 10 arrondissements (district courts) and 4 resorts (courts of appeal) and the Supreme Court. An additional amendment made by parliament demands that 1 of the 10 arrondissements (East Netherlands) will be split in two parts (in fact, the provinces Gelderland and Overijssel), so we have than actual 11 arrondissements. The courts will adjudicate in over 30 locations throughout the Netherlands. An administrative and organisational scale-up (not the budgetary targets) was the purpose of revising the judicial map. Thus, better opportunities for specialization and a more customer-oriented differentiation will be created for the courts.

Concerning legal professionals: adjusting legal aid: the importance of maintaining expenditures under control underlies the way the legal aid system is assessed. Every effort must be encouraged for the system to withstand periods when the court workload increases, concurrently with the need to save on public expenditure. In the short run, the rates for lawyers will be lowered and, in a divorce case, representation by a lawyer will not be compulsory anymore.

Concerning the reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities: along with the introduction of a new more cost covering fee system, an innovation programme of the judicial sytem will be lunched aiming at E-Justice, simplifying procedures and ADR. The e-Justice program will focus on the following themes: increasing implementation of video conferencing, encouraging the introduction of the digital criminal file - including setting up facilities for identification and authentication, validating and archiving documents, electronic litigation in civil and administrative law - including the introduction of a simple procedure for simple cases, improving the accessibility of files through the Internet, promoting the establishment of a European e-Justice. These measures will stimulate more efficient and effective interactions between the numerous organisations which shape together the judicial system. Civil, administrative and criminal proceedings measures will be designed to better match the needs of litigants and efficient proceedings (for example, a simple procedure for simple civil affairs, a final dispute resolution in administrative law, etc.). In administrative and civil cases, this will, consequently, lower the costs for the citizens. Also ADR will be stimulated more strongly.

Concerning Mediation and other ADR: ADR will be extra stimulated along with the introduction of more cost covering court fees. In this respect, it is part of the innovation programme which will be launched in 2012. The programme implies:

- Implementation of resolution number 2008/52/EG of the European Commission about mediation civil and trade disputes;
- Further stimulation of mediation skills of administrative bodies;
- Stimulation of mediation on disputes with administrative bodies;

- Stimulation of Online Dispute Resolution.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in the Netherlands is 990,667,000 € (neither public prosecution nor legal aid budget is included). This corresponds to 59.5 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.33% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As human resources are concerned, the Netherlands has 15.2 full time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 20.6 judges (this number includes full time professional judges, professional judges sitting in courts on an occasional basis, non professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 60.7 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 100.4, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full time professional judges is 6.6, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 first instance incoming other than criminal cases per 100 inhabitants is 8.7, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance is not available

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in the Netherlands is 68.5 days, which corresponds to 0.27 times the EU27 average Disposition Time and 0.46 times the EU27 median Disposition Time. The Clearance Rate in 2010 is 100.6%, which means that the pending cases are decreasing slightly and the situation is stable.

Data on 2010 Disposition Time for litigious civil and commercial cases is not available.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean¹⁹³.

		Netherlands			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	5	5	6.0	5	31	4.9
Starting business		6	8*	5.1	6	14	5.2
Licences		5.0	44*	263	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate¹⁹⁴.

		Netherlands			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		1.1	4.0	87.7	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

Courts	budget	in	Courts	budget	as
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¹⁹³ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

¹⁹⁴ See the methodological note for more details on this assessment.

	Euro per inhabitant	% of public expenditure
Netherlands	59.5	0.33%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%





The budget allocated to all courts in the Netherlands is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Netherlands	15.2	20.6	60.7	100.4	6.6
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel and lawyers per 100,000 inhabitants, and the lawyers/professional judges ratio, are in line with the EU27 mean.

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code





	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Netherlands	8.7	not available
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, the number of other than criminal cases per 100 inhabitants is in line with the EU27 mean, while the number of litigious civil and commercial cases is not available.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU

judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Netherlands	NA	NA	68.5	100.64%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is good, below half that of the EU27 mean and the Clearance Rate is about 100% which means that the situation is stable and the system is capable of dealing with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Netherlands	NA	NA	NA	NA
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time and Clearance Rate for litigious civil and commercial cases in first instance courts cannot be calculated.

According to the available data the system efficiency is good.

Additional strengths: highly developed qualitative and quantitative court efficiency indicators, there is a workload model for judges and court staff (Lamicie-model) providing time-standards (which are not fixed in time) for the main categories of cases. The existence of a comprehensive court quality system (rechtspraakQ). Negotiation of court budget on the basis of quantitative but also qualitative elements. There is a system of peer review of judges. Regular court users surveys are carried out. Alternative Dispute Resolution has been developed.

Additional Deficiencies: data available not easily comparable with that of other EU countries.

7. RECOMMENDATIONS

Business-friendliness:

No recommendation

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate). This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in the Netherlands, according to the available data, the court system is performing well but not enough data on litigious civil and commercial cases is available.

Additional recommendations:

It could be useful to analyse how already collected data could be aggregated in order to provide more information comparable with other European judicial systems.

ICT systems for communication between courts and their environment should be further developed.

ANNEX: COUNTRY-STATISTICS

First instance

Netherlands	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	274,250	NA	NA	NAP	NAP	NAP	55,400	NA
	2010	287690	NA	NA	NAP	NAP	NAP	60920	NAP
Incoming (number of cases)	2006	1197690	950,450	101,580	NA	NA	NA	145,660	NA
	2008	1270290	NA	NA	NAP	NAP	NAP	116,290	NA
	2010	1451879	NA	NA	NAP	NAP	NAP	114638	NAP
Resolved (number of cases)	2006	1,188,670	230,000	943,000	NA	NA	NA	143,500	NA
	2008	1,263,920	200,000	947,570	NAP	NAP	NAP	116,350	NAP
	2010	1461153	208,805	1,130,075	NAP	NAP	NAP	122273	NAP
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NAP	NAP	NAP	NA	NA
	2010	274170	NA	NA	NAP	NAP	NAP	53410	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	99%	24%	928%	NA	NA	NA	99%	NA
CR	2008	99%	NA	NA	NA	NA	NA	100%	NA
CR	2010	101%	NA	NA	NA	NA	NA	107%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	68	NA	NA	NA	NA	NA	159	NA

Second instance

Netherlands	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	32,140	NA	NA	NA	NA	NA	15,360	NA
	2010	30900	NA	NA	NAP	NAP	NAP	13420	NAP
Incoming (number of cases)	2006	32930	22,770	NA	NA	NA	NA	10,160	NA
	2008	26494	NA	NA	NA	NA	NA	11,890	NA
	2010	26350	NA	NA	NAP	NAP	NAP	10772	NAP
Resolved (number of cases)	2006	32,820	23,360	NA	NA	NA	NA	9,460	NA
	2008	25,419	NA	NA	NA	NA	NA	10,510	NA
	2010	27868	NA	NA	NAP	NAP	NAP	11207	NAP
Pending 31 Dec. (number of cases)	2006	NA	16,580	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	29610	NA	NA	NAP	NAP	NAP	12990	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	100%	103%	NA	NA	NA	NA	93%	NA
CR	2008	96%	NA	NA	NA	NA	NA	88%	NA
CR	2010	106%	NA	NA	NA	NA	NA	104%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	259	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	388	NA	NA	NA	NA	NA	423	NA

Highest instance

Netherlands	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	2,133	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NAP	NAP	NAP	NA	NAP
Incoming (number of cases)	2006	NA	507	NA	NA	NA	NA	6,743	NA
	2008	1334	NA	NA	NA	NA	NA	NA	NA
	2010	1662	NA	NA	NAP	NAP	NAP	1009	NAP
Resolved (number of cases)	2006	NA	446	NA	NA	NA	NA	7,043	NA
	2008	1,520	NA	NA	NA	NA	NA	NA	NA
	2010	1595	NA	NA	NAP	NAP	NAP	968	NAP
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	1,833	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	88%	NA	NA	NA	NA	104%	NA
CR	2008	114%	NA	NA	NA	NA	NA	NA	NA
CR	2010	96%	NA	NA	NA	NA	NA	96%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	95	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

POLAND

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

20. POLAND

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Poland	EU27 Mean	Poland	EU27 Mean
Number of procedures	6	5	4 (67%)	1 (27%)
Time (days)	150	31	142 (95%)	9 (26%)
Cost (% of property value)	0.3	4.9	0.0 (3%)	1.1 (21%)
% of procedures possible by Internet	0	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	449546	3135852	3299519	287462

Disposition Time: 32 days (EU27 mean: 49 days / EU27 median: 24 days)

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Poland	EU27 Mean	Poland	EU27 Mean
Number of procedures	6	6	0.2 (3%)	1 (16%)
Time (days)	32	14	1 (3%)	2 (17%)
Cost (% of per capita GNI)	12.6	5.2	1.4 (11%)	0.8 (24%)
% of procedures possible by Internet	3	83	100	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	24557	564172	567840	20889

Disposition Time: 13 days (EU27 mean: 112 days / EU27 median: 10 days)

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Poland	EU27 Mean
Time (years)	3.0	1.9
Cost (% of estate)	15.0	10.5
Recovery rate (%)	31.5	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	691	631
Number of firms	3742673	NA
Ratio	0.0	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Poland	EU27 Mean
Number	4.8	5.1
Time (days)	27	39
Cost (€)	173	309

The OECD reports an index of 4 which places Poland above the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary¹⁹⁵ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ¹⁹⁶
TOTAL annual approved budget allocated to the functioning of all courts	1,365,085,000	35.7	0.85%
Annual public budget allocated to (gross) salaries	894,463,000	23.4	0.56%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	10,512,000	0.3	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	148,297,000	3.9	0.09%
Annual public budget allocated to court buildings (maintenance, operating costs)	68,961,000	1.8	0.04%
Annual public budget allocated to investments in new (court) buildings	42,381,000	1.1	0.03%
Annual public budget allocated to training and education	2,329,000	0.1	0.001%
Other	198,142,000	5.2	0.12%

The overall budget of the justice system is 2,821,561,570 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, judicial protection of juveniles, functioning of the Ministry of Justice and other services (damages paid by the State, other forms of education, social security benefits, National School for Judges and Prosecutors).

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	10,625	34,566	29,469	NA	2,188	845
Number / population *100,000	27.8	90.5	77.1	NA	5.7	2.2
Number / State + Local annual expenditure in Billions	66.0	214.8	183.1	NA	13.6	5.2

¹⁹⁵ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

¹⁹⁶ General government expenditure is based on 2010 Eurostat data.

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

There are 10,625 professional judges sitting in ordinary and administrative courts, including 7,234 at first instance, 3,213 at second instance and 178 at highest instance. Because of the organisation of the Polish court system, certain number of second instance courts judges sits also in first instance cases. It is impossible to provide exact figures because of the fact that some judges sit in first and second instance cases in regional courts. In addition to professional judges, in Poland, there are 22,076 non-professional judges performing various judicial functions. There are no non-professionals judges (lay judges) in Supreme Court.

Non-judge staff

Of the 35,946 non-judge staff units of personnel who are working in ordinary and administrative courts, for 20,283 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 7,058 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). Finally, there are 3,536 technical staff and other 3,204 assistants of judges (their role is strictly connected with judicial functions (for example, the preparation of judgment and justification drafts) - they do not perform any administrative tasks). In Poland, there are 1,865 Rechtspfleger or similar bodies with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal. "Referendarz" represents quasi judicial functions in the courts. He/she has a right to decide in specific issues concerning handling court registers: land registry, company registry etc.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 3.4.

Other actors of the non-criminal justice system

Lawyers: in civil and administrative cases, they have a monopoly on legal representation only before the Supreme Court. Regarding civil cases, it is allowed to be represented not only by a lawyer, but also by a family member, a joint participant, by an association or by a trade union. Regarding administrative cases, it is allowed to be represented not only by a lawyer (advocate, legal adviser), but also by any individual who has an active capacity. The profession of lawyer is organised as advocates or legal advisors.

Notaries: notary is a person of public trust - in the course of performing his/her functions, he/she enjoys the protection as a public functionary. Notary operates as self-employed in a private office. Notary is paid by the client. Fee limits (maximal) are set by law. Notaries have duties in the framework of civil procedure. In principle, the notaries have duties listed in the Law on Notary as well as other specific regulations which require the documents to be in a notarial form – prepared and produced by a notary. It includes preparing the notarial deeds, contracts and agreements, notarial wills, minutes of the meetings, accepting sworn statements, producing excerpts of documents, certifies copies etc. Documents produced by notaries have status of public official documents.

Bailiffs acting as **enforcement agents:** enforcement agent is a public functionary acting within the jurisdiction of the District Court.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases/Professional Judges sitting in courts full	Incoming first instance non criminal cases/Professional Judges sitting in courts full time, professional judges	Incoming first instance non criminal cases/
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time	sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	(judges and administrative personnel)
877	270	136

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management in more than 50% of courts, while there are electronic tools for tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Poland 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, e-mail, Internet connection are available in 100% of courts; while electronic files are available in less than 10% of courts. As to the electronic communication between courts and their institutional environment, the possibility of access to court electronic registers is available in 100% of courts, while the possibility to follow up on a case online, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are available in less than 10% of courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):¹⁹⁷

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

ICT

¹⁹⁷ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Country	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	Overall ICT installed base
Poland	4.0	3.7	2.1	3.3
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Poland	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	79	143	74	127
	DT 2008	58	166	41	111
	DT 2010	49	180	33	121
Second instance	DT 2006	62	63	56	207
	DT 2008	53	39	33	NA
	DT 2010	76	45	36	445
Highest instance	DT 2006	82	NA	NA	NA
	DT 2008	193	NA	NA	234
	DT 2010	327	NA	NA	445

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

The number of hearings is non available for Poland.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Poland	Instance	TOTAL	Civil&com litig	Civil&com	Admin law
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		(Civil&commercial+administrative+ other cases)		nonlit	
CR 2010	First	100%	95%	97%	95%
	Second	97%	99%	99%	75%
	Highest	81%	NA	NA	75%

Poland	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	1238599	385035	267610	21267
	Second	37817	13552	1889	14322
	Highest	16661	NA	NA	14322

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

Overall, in the 2006-2010 period, the **total** number of other than criminal incoming cases rises by an average of 22.3% per year, from 4,171,029 in 2006 to 8,419,031 in 2008 to 9,320,293 in 2010, while the number of resolved cases rises by an average of 23.2% per year, from 4,047,701 in 2006 to 8,374,441 in 2008 to 9,311,414 in 2010. Disposition Time for other than criminal cases shows a positive trend, decreasing by an average of -11.4% per year, from 79 days in 2006 to 58 days in 2008 to 49 days in 2010.

At the same time, the number of incoming **litigious civil and commercial** cases between 2006 and 2010 decreases by an average of 5.3% per year, from 1,019,912 in 2006 to 746,926 in 2008 to 819,861 in 2010, while the number of resolved cases decreases by an average of 6.2% per year, from 1,006,947 in 2006 to 719,296 in 2008 to 778,641 in 2010. Disposition Time shows a negative trend, increasing by an average of 5.9% per year, from 143 days in 2006 to 166 days in 2008 to 180 days in 2010.

The number of incoming **non-litigious civil and commercial** cases rises by an average of 16.7% per year, from 1622544 in 2006 to 1,961,280 in 2008 to 3,004,287 in 2010, while the number of resolved cases rises by an average of 17.7% per year, from 152,585 in 2006 to 1,923,632 in 2008 to 2,926,076 in 2010. Disposition Time in non-litigious civil and commercial cases shows a positive trend, decreasing by an average of 18.0% per year, from 74 days in 2006 to 41 days in 2008 to 33 days in 2010.

The number of incoming **administrative** cases rises by an average of 1.8% per year, from 63,260 in 2006 to 58,129 in 2008 to 67,830 in 2010, while the number of resolved cases decreases by an average of 5.2% per year, from 79,541 in 2006 to 59380 in 2008 to 64,121 in 2010. Disposition Time in administrative cases decreases by an average of 1.2% per year, from 127 days in 2006 to 111 days in 2008 to 121 days in 2010.



Compared to first instance Disposition Time values for the same years,¹⁹⁸ Disposition Time of second instance courts in 2006, 2008 and 2010 civil and commercial litigious cases (63, 39 and 45 days respectively) are low, while Disposition Time of administrative cases in 2006, and 2010 (207 and 445 days respectively) are high. The other available second instance Disposition Time values are in line with the first instance Disposition time value of the same year.

Highest instance courts 2008 and 2010 Disposition Time the total number of other than criminal cases values (193 and 327 days) are comparatively high (2006 value is in line), as are 2008 and 2010 administrative cases Disposition Time values (234 and 445 days).

Q11: Number, average duration and costs of non-criminal¹⁹⁹ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

¹⁹⁸ Comparison with first instance DT has been done according to the following formulas:

For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

¹⁹⁹ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NAP	NAP	NAP	NAP	NAP	NAP	NAP
Small claim (not Payment Order)	13380	102405	82537	33248	147	80.6%	NA
Payment Order	41629	1957860	1898617	100872	19	97.0%	NA

Small claims procedure in Polish civil procedure is the type of litigious proceedings used in the specified cases (property claims based on contracts and breach of contracts relations, with total value not exceeding 10000 PLN - rent payment disputes in a housing matters - court's deposits) whereas the order for payment procedure is the non-litigious procedure. Thus, these two figures cannot be taken together as small claims.

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	533210	3824148	3704717	652645	64	96.9%	NA
litigious	344160	819861	778641	385035	180	95.0%	NA
non-litigious	189050	3004287	2926076	267610	33	97.4%	NA

The ICT system "E-court" supports the electronic payment-order procedure, which is a simplified procedure for money claims. Complaints can be lodged using an account created electronically on the E-Courts servers from all over the country – which is the exception from the civil procedure code which introduces strict rules of the court appropriate for specified kind of case. In the E-Court the defendant in writ-of-payment proceedings can participate by the means of electronic communication or can choose to receive the official document by the special e-mail box created for him/her on the E-Court servers. In 2010, the system was used for 686,973 cases.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

UIHJ data: the average duration of a procedure of recognition of a judgment under the Brussels I Regulation (Regulation (EC) 44/2001 of 22 December 2000) as well as its average cost are not available. In the same way, the average duration of an exequatur procedure of a judgment in civil and commercial matter coming from a non-EU country as well as its average cost are unknown.

If a decision taken in civil and commercial matter from another State of European Union has been recognised in Poland under the Brussels I Regulation, and in absence of voluntary compliance by the debtor, the average percentage of decisions fully or partially enforced is unknown. The average percentage of decisions whose implementation has not been possible due to the failure of the debtor is unknown too.

The causes that prevented the enforcement of the court decision are (from the least frequent to the most frequent cause): it was impossible to obtain information about the debtor's assets, including their location; enforcement procedures in place were not successful for various reasons; the debtor is subject to bankruptcy proceedings or an equivalent procedure; the debtor is insolvent; the debtor has left no forwarding address or has no longer a known address.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	533210	3824148	3704717	652645	64	96.9%	NA
litigious	344160	819861	778641	385035	180	95.0%	NA
non-litigious	189050	3004287	2926076	267610	33	97.4%	NA

In Poland, a private mediator worked on civil and commercial cases, administrative cases, employment cases and family law cases (ex. divorce). There is no possibility to receive legal aid for mediation procedure. There are 2,470 accredited or registered mediators who practice judicial mediation procedures in Poland.

Source Partners Poland Mediation Center :

- Total number of judicial mediation cases, in other than criminal matters in Poland in 2010: 2031 (2368, including cases concerning juveniles)

- Number of judicial mediation: in family cases: 988; in commercial cases: 848; in employment dismissal cases: 195 ; (in cases concerning juveniles: 337) (Data source: Ministry of Justice of the Republic of Poland)

- Average cost of judicial mediation procedure, in other than criminal matters in 2010: data not available in non-criminal and non-juvenile offenders matters because it is the parties who pay for mediation, not the state.

- Average length of the judicial mediation procedures, in other than criminal matters in 2010: the average length is 42 days, but this number may include some Victim Offender Mediations (criminal matters) (data source: own research done by the respondent, Maciej Tanski)

- Total number of cases which are settled through judicial mediation in other than criminal matters in Poland in 2010: 634 (895, including cases concerning juveniles).

- Number of cases which are settled through judicial mediation: in family cases: 439 ; in commercial cases 169; in employment dismissal cases: 26; (in cases concerning juveniles: 261)(data source: Ministry of Justice of the Republic of Poland)

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	1962148	1688256	1668136	1982268	434	98.8%
2008	87940	623440	620158	91221	54	99.5%
2010	123709	1422749	1383667	162791	43	97.3%

Data on first instance courts' enforcement procedure, in the period 2006-2010, shows a positive trend, decreasing by an average of 43.9% per year, from 434 days in 2006 to 54 days in 2008 to 43 days in 2010.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

UIHJ data: enforcement proceedings in domestic law: the average length of enforcement proceedings in civil and commercial matter is more than 6 months. There is a maximum time to enforce a court decision in this matter: 10 years. The enforcement agent in charge of enforcing a court decision cannot grant the debtor installments for the payment of the debt.

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

Data non-available for Poland

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

UIHJ data: data non-available for Poland.

According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is free²⁰⁰.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment	Pending	Incoming	Resolved	Pending	Disposition	Clearance	% of decisions
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²⁰⁰ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_pl_en.jsp

dismissal cases - First instance	cases on 1 Jan.'10 (number of cases)	cases (number of cases)	cases (number of cases)	cases on 31 Dec'10 (number of cases)	Time (days)	Rate (%)	subject to appeal (%)
2006	8 985	20 960	20 982	8 963	NA	NA	13,88
2008	6 331	16 972	16 562	6 741	NA	NA	14,23
2010	9140	20578	20051	9667	176	97.4%	14,97

The average length of the proceedings in employment dismissal cases in 2010 is not available. The % of pending cases for more than 3 years is 3.06%.

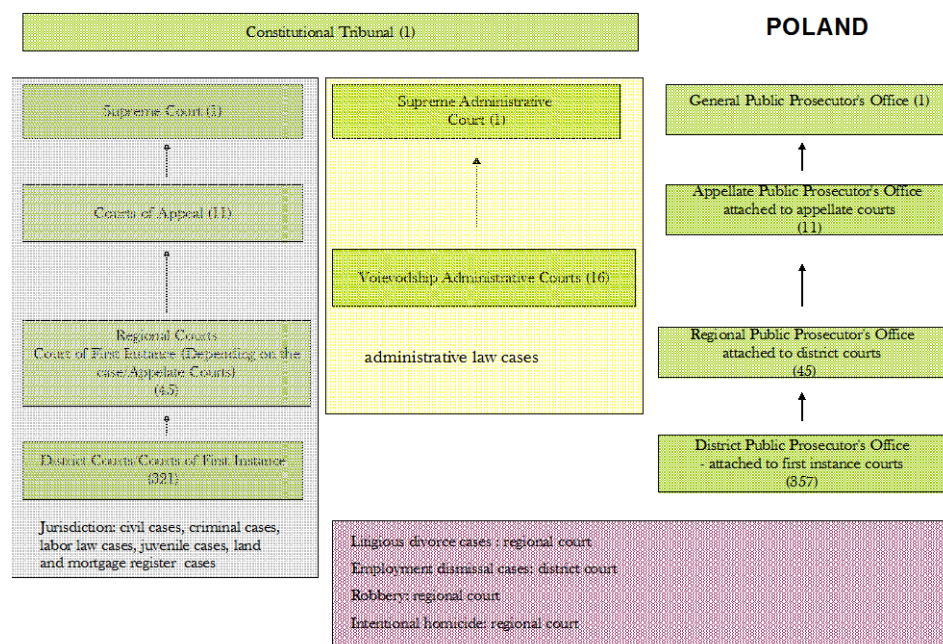
Data on employment dismissal procedure motivations is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Poland, there are 365 courts of first instance with general jurisdiction and 28 specialised courts of first instance including 16 administrative courts and 12 military courts. For the second instance, there are 45 district courts, 11 appellate courts and 1 supreme administrative court (which is also the highest administrative court). The highest instance courts are the supreme court, the supreme administrative court and the constitutional tribunal.

Polish judicial system contains the specific role of district courts which act as courts of first instance (in specified cases) and courts of second instance (when the regional courts deliver the sentence).



COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs. The system is based on statistical evaluation of number of performance indicators and supervisory tasks of Presidents of the Courts and Minister of Justice who monitor performance of courts and individual

judges. The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), pending cases and backlogs and waiting time between the day the case comes to the court and the first day of trial in this case. Performance targets are set at the level of the court, the main targets of the courts are related to keeping with the timeframes for specific actions imposed by law, productivity of court and judges, number of decided cases to number of incoming cases, backlogs generating and number of decisions reversed or annulled within procedure of appeal. There are specific quality standards for the judicial system as a whole. The most important indicator comes from evaluation of judgments through second instance procedure. For this purpose, the "judgment stability" ratio is in use as a ratio of judgments reversed or annulled in appeal procedures. There are quantitative performance targets (for instance, a number of cases to be addressed in a month) defined for each judge. Systems to monitor backlogs and cases that are not processed with a reasonable timeframe and to monitor waiting time during the court procedures (time between the day case comes to court and the first day of the trial in this case, time between the day of lodging the motion of appeal and the first day of trial in the second instance court, real time for distributing to the parties of the written copy of the court order with written reasoning of the judgment) are in place.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Poland	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

There is a foreseen change in structure of courts in Poland. Plans provide the reduction in number of courts (as legal entities). Number of geographic locations will remain stable. The draft resolution on this matter is already prepared.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Poland is 1,365,085,000 € (neither public prosecution nor legal aid budget is included). This corresponds to 35.7 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.85% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Poland has 27.8 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 90.5 judges (this number includes full-time professional judges, professional judges sitting in courts on an

occasional basis, non-professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 179.7 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 77.1, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 2.8, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 24.4, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 2.1, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Poland is 48.6 days, which corresponds to 0.19 times the EU27 average Disposition Time and 0.33 times the EU27 median Disposition Time. The situation is an improvement on the 57.6 days in 2008 and to the 78.9 days in 2006. The Clearance Rate in 2010 is 99.9%, which means that the pending cases are increasing slightly and the situation is stable.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 180.5 days, which corresponds to 0.63 times the EU27 average Disposition Time and 0.84 times the EU27 median Disposition Time. The situation is worsening compared to 165.8 days in 2008 and to 143.5 days in 2006. The Clearance Rate in 2010 is 95.0%, which means that the pending cases are increasing slightly and the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean²⁰¹.

²⁰¹ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

		Poland			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property Starting business Licences	a	6	150	0.3	5	31	4.9
		6	32*	12.6	6	14	5.2
		4.8	27*	173	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate²⁰².

		Poland			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		3.0	15.0	31.5	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Poland	35.7	0.85%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Poland is in line with the EU27 mean in terms of euros per inhabitant while it is above it in terms of % of public expenditure.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Poland	27.8	90.5	179.7	77.1	2.8
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2

²⁰² See the methodological note for more details on this assessment.

EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of professional judges, and lawyers per 100,000 inhabitants, and the lawyers/professional judges ratio, are in line with the EU27 mean. The high number of Polish non-professional judges and non-judge staff result in an overall number of judge-like agents which is quite higher than the EU27 mean.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Poland	24.4	2.1
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As the court system's caseload is concerned, the number of other than criminal cases per 100 inhabitants is above the EU27 mean, while the number of litigious civil and commercial cases is in line with it.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Poland	78.9	57.6	48.6	99.90%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is good, below half of that of the EU27 mean and the Clearance Rate is about 100% which means that the situation is stable and the system is capable of dealing with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Poland	143.5	165.8	180.5	94.97%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is adequate, being below the EU27 mean, while the Clearance Rate is below 95% which means that the system is not capable of dealing with all incoming cases. It should also be noted that Disposition Time has kept increasing since 2006.

The efficiency of the system as far as the main categories of cases are concerned is between good and adequate.

Additional strengths: electronic national jurisdiction to deal with electronic payment order procedures.

Additional Shortcomings: highest instance court efficiency, no possibility to receive legal aid for mediation procedure.

7. RECOMMENDATIONS

Business-friendliness:

The time necessary to register property should be sharply reduced with 30 days as an objective. Moreover, the time necessary to start a business should also be sharply decreased with 2 weeks as an objective. The cost of starting a business should be diminished by about 7 points to reach 5%. Furthermore, the time of insolvency and bankruptcy procedures should be sharply reduced with a duration of 2 years as an objective. The cost of such procedures should also be decreased by 5 points to reach 10%. Finally, the recovery rate from insolvency and bankruptcy procedures should be sharply increased with a rate of 80% as an objective.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Poland, first instance judicial system efficiency is good enough, although the trends of litigious civil and commercial cases should be closely monitored. Highest instance court efficiency should be improved.

Additional recommendations:

ICT infrastructure for the management of cases and for the communication between courts and parties can be extended based on the experience accumulated so far.

ANNEX: COUNTRY-STATISTICS

First instance

Poland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	750,577	384,200	208,619	1,962,148	295,727	15,869	43,969	157,758
	2008	1,277,039	299,199	177,506	87,940	577,897	24,653	19,360	90,484
	2010	1228163	344160	189050	123709	449546	24557	17588	79553
Incoming (number of cases)	2006	4171029	1,019,912	1,622,544	1,688,256	2,639,389	564,350	63,260	1,528,573
	2008	8419031	746,926	1,961,280	623,440	3,562,039	539,518	58,129	927,699
	2010	9320293	819861	3004287	1422749	3135852	564172	67830	305542
Resolved (number of cases)	2006	4,047,701	1,006,947	1,522,585	1,668,136	2,606,013	555,297	79,541	1,518,169
	2008	8,374,441	719,296	1,923,632	620,158	3,575,219	542,901	59,380	291550
	2010	9311414	778641	2926076	1383667	3299519	567840	64121	291550
Pending 31 Dec. (number of cases)	2006	874,992	395,878	308,564	1,982,268	334,169	22,548	27,688	170,550
	2008	1,321,712	326,809	215,320	91,221	564,717	21,270	18,109	84,266
	2010	1238599	385035	267610	162791	287462	20889	21267	93545

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	97%	99%	94%	99%	99%	98%	126%	99%
CR	2008	99%	96%	98%	99%	100%	101%	102%	31%
CR	2010	100%	95%	97%	97%	105%	101%	95%	95%

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	79	143	74	434	47	15	127	41
DT (Days)	2008	58	166	41	54	58	14	111	105
DT (Days)	2010	49	180	33	43	32	13	121	117

Second instance

Poland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	58,308	51,008	7,300	NA	NA	NA	6,848	NA
	2008	28,757	14187	1738	NA	NA	26	NA	13,213
	2010	32876	12588	1738	NA	NA	46	10427	8077
Incoming (number of cases)	2006	234399	206,401	27,998	NA	NA	NA	16,157	NA
	2008	158843	98,609	17,011	NA	NA	337	NA	42,886
	2010	185567	110195	19399	NA	NA	297	15642	40034
Resolved (number of cases)	2006	249,007	219,659	29,348	NA	NA	NA	14,675	NA
	2008	161,052	98,981	16,844	NA	NA	333	NA	44,894
	2010	180626	109231	19248	NA	NA	299	11747	40101
Pending 31 Dec. (number of cases)	2006	42,161	37,698	4,463	NA	NA	NA	8,330	NA
	2008	23,449	10,707	1,507	NA	NA	30	NA	11,205
	2010	37817	13552	1889	NA	NA	44	14322	8010

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	106%	106%	105%	NA	NA	NA	91%	NA
CR	2008	101%	100%	99%	NA	NA	99%	NA	105%
CR	2010	97%	99%	99%	NA	NA	101%	75%	100%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	62	63	56	NA	NA	NA	207	NA
DT (Days)	2008	53	39	33	NA	NA	33	NA	91
DT (Days)	2010	76	45	36	NA	NA	54	445	73

Highest instance

Poland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	17,008	-	-	-	-	-	-	6
	2008	10,346	NA	NA	NA	NA	NA	8,470	1,876
	2010	12400	NA	NA	NA	NA	NA	10427	NA
Incoming (number of cases)	2006	6318	-	-	-	-	-	-	79
	2008	20705	NA	NA	NA	NA	NA	14,642	6,063
	2010	22883	NA	NA	NA	NA	NA	15642	NA
Resolved (number of cases)	2006	6,554	-	-	-	-	-	-	75
	2008	20,323	NA	NA	NA	NA	NA	14,085	6,238
	2010	18622	NA	NA	NA	NA	NA	11747	NA
Pending 31 Dec. (number of cases)	2006	1,470	-	-	-	-	-	-	10
	2008	10,728	NA	NA	NA	NA	NA	9,027	1,701
	2010	16661	NA	NA	NA	NA	NA	14322	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	104%	NA	NA	NA	NA	NA	NA	95%
CR	2008	98%	NA	NA	NA	NA	NA	96%	103%
CR	2010	81%	NA	NA	NA	NA	NA	75%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	82	NA	NA	NA	NA	NA	NA	49
DT (Days)	2008	193	NA	NA	NA	NA	NA	234	100
DT (Days)	2010	327	NA	NA	NA	NA	NA	445	NA

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

PORTUGAL

Report
prepared by

Eric Dubois
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Report prepared for
the European Commission (Directorate General Justice)

21. PORTUGAL

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Portugal	EU27 Mean	Portugal	EU27 Mean
Number of procedures	1	5	1 (100%)	1 (27%)
Time (days)	1	31	1 (100%)	9 (26%)
Cost (% of property value)	7.3	4.9	7.3 (100%)	1.1 (21%)
% of procedures possible by Internet	0	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Portugal	EU27 Mean	Portugal	EU27 Mean
Number of procedures	5	6	3 (60%)	1 (16%)
Time (days)	5	14	3 (60%)	2 (17%)
Cost (% of per capita GNI)	1.1	5.2	1.1 (100%)	0.8 (24%)
% of procedures possible by Internet	100	83	100	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Portugal	EU27 Mean
Time (years)	2.0	1.9
Cost (% of estate)	9.0	10.5
Recovery rate (%)	70.9	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	4107	5144
Number of firms	1098255	1094468
Ratio	0.4	0.5

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Portugal	EU27 Mean
Number	6.6	5.1
Time (days)	52	39
Cost (€)	461	309

The OECD reports an index of 0 which places Portugal below the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary²⁰³ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ²⁰⁴
TOTAL annual approved budget allocated to the functioning of all courts	528,943,165	49.7	0.60%
Annual public budget allocated to (gross) salaries	429,475,486	40.4	0.49%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	10,565,978	1.0	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	27,544,641	2.6	0.03%
Annual public budget allocated to court buildings (maintenance, operating costs)	38,762,543	3.6	0.04%
Annual public budget allocated to investments in new (court) buildings	0	0.0	0.00%
Annual public budget allocated to training and education	22,594,517	2.1	0.03%
Other	NA	NA	NA

The overall budget of the justice system is 1,693,952,793 euros. This includes the budget for the court system, public prosecution services, prison system, probation services, Council of the judiciary, judicial protection of juveniles, functioning of the Ministry of justice and the Criminal Investigation Police (Policia Judiciária).

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	1,956	1,956	27,591	103	446	706
Number / population *100,000	18.4	18.4	259.4	1.0	4.2	6.6
Number / State + Local annual expenditure in Billions	22.1	22.1	311.8	1.2	5.0	8.0

²⁰³ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

²⁰⁴ General government expenditure is based on 2010 Eurostat data.

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

Judges

There are 1,956 professional judges sitting in courts, including 1449 at first instance, 422 at second instance and 85 at highest instance.

Non-judge staff

Of the 6,631 non-judge staff units of personnel who are working in ordinary and administrative courts, for 6010 the main tasks are to assist judges with case file preparation, assist during the hearing, recording court proceedings, helping to draft the decisions, and other procedural activities necessary for the smooth running of the cases. Another 339 are in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management). Finally, there are 273 technical staff and other 9 other non judge staff units. In Portugal there is not a Rechtspfleger or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal. Otherwise, in ordinary courts, there are 6089 non-judge staff working in first instance, 224 non-judge staff working in second instance and 57 non-judge staff working in highest instance court.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 3.4.

Other actors of the non-criminal justice system

Lawyers: there are 103 EU lawyers, established on the basis of Lawyers Directive 98/5 (99 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC) and 4 EU lawyers who have gained admission to the host member State under Art. 10 of Directive 98/5/EC). In Portugal, lawyers are mandatory for every law case except for certain labour cases and administrative court cases. In civil cases, there is no monopoly except in general for certain cases depending on their value.

Notaries: there are 446 **notaries**, 381 acting as private professionals under the authority of public authorities and 85 acting as public agents. Due to the special nature of the notary activity, there is a double supervision and control by the Notaries Order, the professional body of notaries in Portugal, and by the Ministry of Justice, through the Institute of Registries and Notary. The services they provide include the certification of authenticity of legal deeds and certificates, and legal advice. In fact, notaries are one of the entities in Portugal that can legalize contracts and documents in general and authenticate signatures, either because the law requires it or at the parties' request. However, in most cases, even when the law requires a certain level of authenticity in the documents, it is possible for other legal professionals to do it, such as registers, lawyers or solicitors.

Bailiffs acting as **enforcement agents**: The bailiffs are public officers or private enforcement agents (solicitors and lawyers). The private enforcement agents take control of court processes and have the powers to use of information and communication technologies (IT) concerning electronic /direct access to public database with information on the identification of the defendant/his assets; electronic /direct access to public register of all court processes with the identification of the defendant / the assets that were seizure etc. The judge is only able to examine the enforcement title in some cases, decide the oppositions to the enforcement procedure or to the seizure (in 3 months), decide to lodge claims and the graduation of credits and decide the claims regarding the acts of the Enforcement Agent (within 10 days).

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases in 2010/Professional Judges sitting in courts full time	Incoming first instance non criminal cases in 2010/Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases in 2010/ (judges and administrative personnel)
301	301	69

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Portugal 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, Electronic data-base of case-law, Electronic files, E-mail, Internet connection, are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility to follow up on a case online, access to court electronic registers, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are also available in 100% of courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):²⁰⁵

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

ICT

²⁰⁵ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Country	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	Overall ICT installed base
Portugal	4.0	4.0	4.0	4.0
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Portugal	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	834	449	NA	NA
	DT 2008	925	430	NA	NA
	DT 2010	1096	417	NA	NA
Second instance	DT 2006	156	NA	NA	NA
	DT 2008	122	NA	NA	NA
	DT 2010	132	NA	NA	NA
Highest instance	DT 2006	84	NA	NA	NA
	DT 2008	91	NA	NA	NA
	DT 2010	76	NA	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation

Q10: Clearance Rate and number of pending cases by sector of judiciary

to Clearance Rate, see the reply to Q10.

Portugal	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
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CR 2010	First	88%	102%	NA	NA
	Second	100%	NA	NA	NA
	Highest	105%	NA	NA	NA

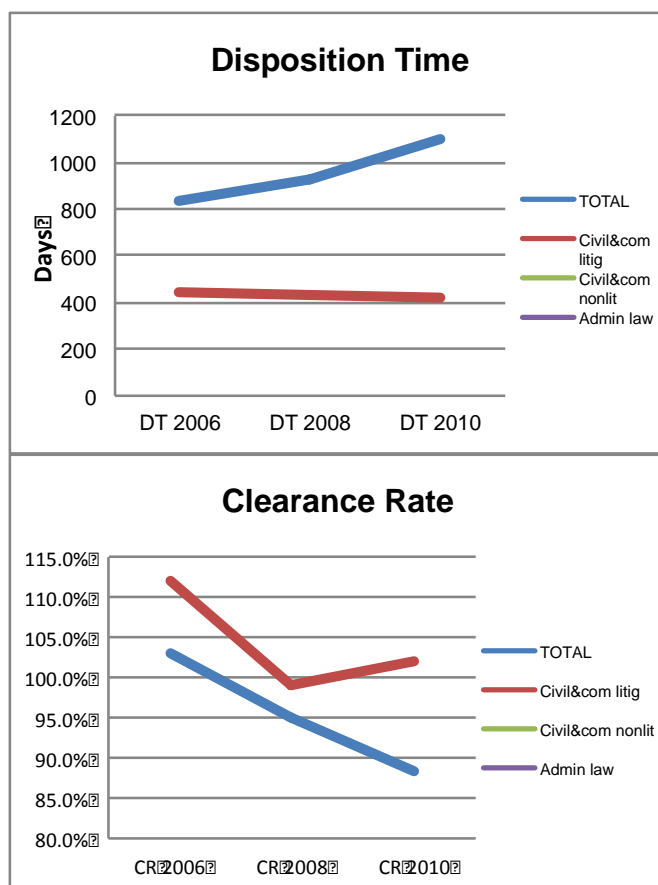
Portugal	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	1562309	366135	NA	NA
	Second	6492	NA	NA	NA
	Highest	569	NA	NA	NAP

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

Overall, in the 2006-2010 period, the **total** number of other than criminal incoming cases rises by an average of 0.6% per year, from 575,325 in 2006 to 572,657 in 2008 to 589,286 in 2010, while the number of resolved cases decreases by an average of 3.3% per year, from 593,718 in 2006 to 544,515 in 2008 to 520,085 in 2010. Disposition Time for other than criminal cases shows a negative trend, increasing by an average of 7.1% per year, from 834 days in 2006 to 925 days in 2008 to 1,096 days in 2010.

Also in the 2006-2010 period, the number of incoming **litigious civil and commercial** cases rises by an average of 2.7% per year, from 282,590 in 2006 to 314,729 in 2008 to 314,317 in 2010, while the number of resolved cases rises by an average of 0.3% per year, from 316,649 in 2006 to 311,797 in 2008 to 320,267 in 2010. Disposition Time shows a stable situation, decreasing by an average of 1.8% per year, from 449 days in 2006 to 430 days in 2008 to 417 days in 2010.

Data for **non-litigious civil and commercial** and for **administrative** cases is not available.



Compared to first instance Disposition Time values for the same years,²⁰⁶ Disposition Time of second instance courts in 2006, 2008 and 2010 for the total number of other than criminal cases values (156, 122 and 132 days respectively) are low. Also Disposition Time values of highest instance courts in 2006, 2008 and 2010 for the total number of other than criminal cases (84, 91 and 76 days respectively) are comparatively low. Other second and highest instance Disposition Time values are not available.

Q11: Number, average duration and costs of non-criminal²⁰⁷ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	NA	NA	NA	NA	NA	NA
Small claim (not Payment Order)	49964	45771	51794	43941	310	113.2%	NA
Payment Order	95952	427134	431760	91326	77	101.1%	NA

Small claims procedure (Processo sumário) is a special procedure that is simpler than the ordinary procedure and it applies in cases where the amount at stake is below a certain monetary threshold or for certain types of litigation. Order for payment procedures (Procedimentos de injunção) apply whenever a party wishes to confer an enforceable status on a request for fulfillment of pecuniary obligations arising from contracts.

The vast majority of these two typologies of cases is handled electronically.

Small civil claims procedure applies whenever a party wishes to confer an enforceable status on a request for fulfillment of pecuniary obligations arising from contracts amounting to no more than €15 000. Portugal has only 1 court for debt collection of small claims because since the establishment of the Order for Payment "one stop shop" (Balcão Nacional de Injunções), the debt collection is centralized. The Balcão Nacional de Injunções, is a General Secretariat with exclusive competence in what concerns the electronic debt collection of small claims. Notwithstanding the existence of the Balcão Nacional de Injunções, that deals exclusively with electronic debt collection, Portuguese first instance courts are still competent and available for the collection of small claims debts. However, the huge majority of small claims are procedures dealt with by the Balcão Nacional de Injunções as the parties prefer the electronic debt collection.

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
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²⁰⁶ Comparison with first instance DT has been done according to the following formulas:

For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

²⁰⁷ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Total	NA	NA	NA	NA	NA	NA	NA
litigious	372085	314317	320267	366135	417	101.9%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Portugal

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	111	64	15	NA	NA	5	16
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	111	64	15	NA	NA	5	16
3. Administrative mediation	NAP	NAP	NAP	NAP	NAP	NAP	NAP
4. Employment dismissal mediation	NAP	NAP	NAP	NAP	NAP	NAP	NAP

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	372085	314317	320267	366135	417	101.9%	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

In Portugal, a private mediator worked on administrative cases while civil and commercial cases, family law cases (ex. divorce) and employment dismissals are dealt with by a public authority (other than the court). There is 255 accredited or registered mediators who practice judicial mediation procedures in Portugal. A possibility to receive legal aid for mediation procedure does exist. In Portugal, Peace Courts are part of the legal system, these courts are based on an extra-judicial basis (Law 78/2001, 13 July) if the parties have not reached an agreement through mediation, they can go to trial, where a decision is issued by the Peace Judge, who may also promote the parties' conciliation. The Law n.º 29/2009, of 29.06, proceeded to the transposition of the Directive 2008/52/EC of the European Parliament and Council, amending the Code of Civil Procedure, enabling pre-judicial mediation and in the course of the civil proceedings in the common Judicial Courts.

The total number of judicial mediation procedure is: 2854 including 2406 civil cases and 116 employment dismissal cases.

Source: Office for the Alternative Dispute Resolution – GRAL:

In Portugal, there are only the Peace Courts (which have a component of Civil Mediation), the Family Mediation, Labour Mediation, Criminal Mediation and Arbitration Centres.

Concerning the cost: In Portugal there is not an average cost per case but single fixed rates, whose values were the same in 2010 and 2011. Thus, in the cases of civil mediation in the Peace Courts the rate is of 25€ for each party, except if there is legal aid. In Family Mediation, it is 50€ for each party, unless there is legal aid or if the case is referred to mediation by the judge (court) under the rules of the Organisation for the Guardianship of Minors, which is free. In Labour Mediation, it is 50€ for each party, unless there is legal aid. In CAAD – Administrative mediation the cost for each part depends on the value contained in the tariff of this center based on the complexity of the subject.

Concerning the average duration: In Family Mediation the average duration is of 76.5 days (2010) and 30.02 days (2011). In Labour Mediation, the average duration is of 2 days (2010) and 7 days (2011). With regard to the Civil mediation in the Peace Courts there are only available data on the average duration of the case which is of 65 days, and there is no calculation of the duration regarding mediation but only on the all from the time the case is brought until it is concluded, either it ends by mediation or by trial. As for administrative mediation, there is no data on this item.

	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Cost
Arbitration cases	1390	9036	8445	1981	86	93.5%	NA

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	952489	292735	277069	968155	1275	94.6%
2008	987229	257928	232718	1012439	1588	90.2%
2010	1121023	274969	199818	1196174	2185	72.7%

Data on first instance courts' enforcement procedure, in the period 2006-2010, shows a negative trend, increasing by an average of 14.4% per year, from 1,275 days in 2006 to 1,588 days in 2008 to 2,185 days in 2010.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Portugal

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Portugal

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

According to the European Judicial Atlas in Civil Matters, the service of judicial documents coming from a member State under Regulation 1392/2007 shall not give rise to any payment of taxes or costs for services rendered²⁰⁸.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	2 771	NA	NA	NA	NA
2008	3 622	4 145	2 798	4 969	NA	NA	NA
2010	7161	7754	7120	7795	400	91.8%	NA

In 2010, the average length of proceedings in employment dismissal cases is 300 days in 1st instance courts, 150 days in 2nd instance courts, and 180 days in 3rd instance courts. The % of pending cases for more than 3 years is not available.

Data on employment dismissal procedure motivations is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Portugal, justice services are provided by ordinary courts and administrative courts. According to 2010 data, the ordinary justice administration in Portugal is organised in a three-level structure which includes: 217 courts of first instance with general jurisdiction, 5 courts of second instance and the supreme court of justice. Ordinary justice administration comprises also 109 several specialized courts of first instance, such as 4 commercial courts, 48 labour courts, 27 family courts, 5 criminal instruction courts, 1 maritime court and 3 enforcements courts. The administrative justice is organised on a three-level structure which includes: 17 administrative and tax courts (first instance), central administrative court and the supreme administrative court.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

In Portugal, every month, a data collection of all courts is carried out. Otherwise, every 4 years, there is a complete analysis to the work of all courts, with the local inspectors made by judges appointed by the Judicial Council. The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), closed cases, pending cases and backlogs. No performance targets are set at the level of the court and there are no specific quality standards are

²⁰⁸ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_pt_en.jsp?countrySession=10&

defined for the Judicial System as a whole. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge, but the judicial power is responsible for setting the targets for each judge. There is no obligation in the Portuguese system to provide information to the parties concerning the foreseeable timeframes of proceedings. There is no general system to monitor waiting time during procedure even if in some courts this is an usual procedure. Otherwise, a system to evaluate the overall functioning of courts every four years does exist.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Portugal	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

1. (Comprehensive) reform plans:

- Stabilise the production of legislation;
- Subject all laws to an assessment of their efficacy and efficiency;
- Ensure universal access to Justice and the Law and guarantee the effective judicial protection of the legitimate interests of citizens and economic agents, in particular those of the most fragile groups in society;
- Promote the trust in the judicial system;
- Ensure judicial independence and the autonomy of the Public Prosecutors' Office;
- It is the Government's intention to restore the "legal professions" model, in which the different professions – judges, public prosecutors, lawyers, notaries, conservators of public records, solicitors, court staff, enforcement agents, and other auxiliary Justice staff – can see themselves reflected, with clear rules, and the citizens in them;
- The fight against corruption and that against conflicts of interest are key to achieving a fairer society;
- Increase efficiency, reduce costs, avoid waste and centralise the management of facilities and equipment.

2. Legal professions:

- Improve the system for recruiting and training judges and prosecutors;
- Ensure the specialisation of judicial operators;
- Introduce a definition of the number of cases a judge or prosecutor can handle at one time;
- The inclusion in the law of norms designed to substantially limit the participation of judges and prosecutors in service commissions outside the judiciary;
- Establish a real performance evaluation for judges and prosecutors, to be conducted by the Supreme Councils;
- The Government must reconsider the regulations governing registry and notarial fees and their status.

3. Legislative reforms:

- Make it a priority to create institutional and procedural mechanisms for protecting personality rights in urgent cases;
- Adoption of a Statute of the Child;
- The revision of the Civil Code regime governing disqualifications (suspension of civil rights, incapacitation), especially with regard to the elderly;
- Amendment of the Law governing Protective and Educational Measures regarding Juvenile Crime;
- Reform of the judicial organisation and management of the courts ('Judicial Map') – a draft law was submitted to Parliament end November 2012 - including the reorganisation of the judicial districts in Portugal (reduction of courts, leading to bigger districts – now coinciding with the country's administrative districts - which facilitates reallocating judges to those courts where there is a need), creation of one main court per judicial district with specialised sections and 'extensions', creation of 'reserves of judges' to be deployed to courts where there is a need, creation of support entities for judges, introduction of an efficient management system for the courts at district level, creation of a management board for each judicial district (composed of the presiding judge, the coordinating public prosecutor and the court administrator) and of a consultative body, streamlining case distribution and processing, setting up of strategic objectives and monitoring for first instance court activities and obligatory court management training for members of the board, staff plan and budget for the district, etc.- Reform of the Code of Civil Procedure – a draft amendment was submitted to Parliament end November 2012 - aiming at simplifying court procedures with the ultimate objective to reduce the number of backlogged court cases, in particular by means of giving stronger powers to the judges to speed up the procedure and to fight against delaying tactics, introducing an early audience which sets up a binding agenda for the rest of the procedure, reducing the number of witnesses allowed, reducing formalities, simplifying the rules on evidence, shortening deadlines, etc.).
- It is crucial that there is a change in the paradigm for the decision-making process employed by judges, who are presently required to preside over every procedural act, to issue every judicial order, even if it is merely administrative, and to preside over every hearing, all of which in reality constitutes an administrative bottleneck that is blocking the judicial system;
- Create a new paradigm for the declaratory action and for the executory action in order to reduce the number of pending civil suits;
- Enact new rules for procedural management and procedural details;
- Make it obligatory to hold a preliminary hearing;
- Give courts of second instance more efficacy in the examination of matters of fact.

4. Enforcement of court decisions:

- Comprehensive reform of the enforcement system, including the reform of the enforcement procedure as well as of the exercise of the profession of enforcement agents
- Reform the enforcement procedure, in such a way as to do away with it whenever the executory title is a sentence; judicial decisions must either be executed on the basis of a concrete order contained in the sentence, or be handled under an additional incidental procedure; reducing as much as possible the implication of the judges in enforcement procedures;
- In cases in which there is an executive title other than a judicial sentence, it is foreseen to create an abbreviated procedure that makes it possible to resolve cases quickly;
- The Government will determinedly work towards the creation of institutional solutions that make it easier for companies to receive the amounts due to them, which are indispensable to their survival;
- Make the execution of sentences in administrative and fiscal proceedings more agile, allowing execution to be made at the address listed in the tax authorities' database;
- Reform of the statute and the conditions for exercising the activities of enforcement agents: strengthening their legal and institutional framework in line with international practice, creating a fully independent and efficient supervisory and control agency (with sufficient disciplinary powers), enhancing the accountability of enforcement agents, setting up a fee structure for the services of the enforcement agents that incentivises speedy enforcement.
- Make the current law governing insolvency proceedings more agile.

5. Mediations and other ADR:

- Ensure a proximity justice and the de-judicialisation of conflicts;
- The magistrates' courts (Julgados de Paz/ Justices for Peace), which were created in 2001, are courts that possess their own operational and organisational characteristics and are a good example of what a proximity justice can be. A draft law reforming the Justices for Peace regime was submitted to Parliament end November 2012.

6. Other:

- The improvement of the management control and information systems is a fundamental element in increasing efficiency, reducing costs and avoiding waste;
- Develop arbitration-based justice;
- The judicial map must also be rethought from the point of view of the Justice system's users;
- The government will also take account of international good practices and recommendations, evolving towards the proposals set out in the Report of the European Commission for the Efficiency of Justice (CEPEJ), which includes the obligation to tell the parties at the beginning of proceedings and following a procedural management assessment, how long the specific case in question is likely to last.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Portugal is 528,943,165 € (neither public prosecution nor legal aid budget is included). This corresponds to 49.7 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.60% of the general government expenditure (based on 2010 Eurostat data.), compared to a EU27 average of 0.44%, and to a EU27 median of 0.40%.

As human resources are concerned, Portugal has 18.4 full time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 18.4 judges (this number include full time professional judges, professional judges sitting in courts on an occasional basis, non professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 80.7 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 259.4, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full time professional judges is 14.1, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload a Justice System and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 5.5, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 3.0, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This

paragraph analyses the 2010 Disposition Time (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Portugal is 1096.4 days, which corresponds to 4.40 times the EU27 average Disposition Time and 7.44 times the EU27 median Disposition Time. The situation is worsening compared to the 925.1 days in 2008 and to the 834.4 days in 2006. The Clearance Rate in 2010 is 88.3%, which means that the pending cases are increasing and the number of resolved cases should be increased to at least stabilize the situation.

As Disposition Time for the litigious civil and commercial cases is concerned, in 2010 it is 417.3 days, which corresponds to 1.47 times the EU27 average Disposition Time and 1.93 times the EU27 median Disposition Time. The situation is an improvement on the 430.3 days in 2008 and to the 448.6 days in 2006. The Clearance Rate in 2010 is 101.9%, which means that the pending cases are decreasing slightly but the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean²⁰⁹.

		Portugal			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	1	1	7.3	5	31	4.9
Starting business		5	5*	1.1	6	14	5.2
Licences		6.6	52*	461	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate²¹⁰.

		Portugal			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		2.0	9.0	70.9	1.9	10.5	60.6

²⁰⁹ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

²¹⁰ See the methodological note for more details on this assessment.

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Portugal	49.7	0.60%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Portugal is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Portugal	18.4	18.4	80.7	259.4	14.1
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel and lawyers per 100,000 inhabitants, and the lawyers/professional judges ratio, are in line with the EU27 mean.

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Portugal	5.5	3.0
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, the number of other than criminal cases and the number of litigious civil and commercial cases per 100 inhabitants are in line with the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
Portugal	834.4	925.1	1096.4	88.26%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is very high, both in absolute values, both compared to the EU27 mean. Data on previous years show that the situation is worsening. 2010 Clearance Rate confirms such tendency as it is below 90% which means that the system is not capable of dealing with incoming cases.

	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
First instance courts				
Portugal	448.6	430.3	417.3	101.89%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is not adequate but better compared to the total number of other than criminal cases. Furthermore, Disposition Time has improved compared to that of the previous years. The Clearance Rate is about 100% which means that the situation is stable, the system is capable of dealing with incoming cases but is not tackling the problem of the high pending/resolved ratio.

The efficiency of the system as far as the main categories of cases are concerned is between not adequate and negative.

Additional strengths: a number of reforms are being carried out.

Additional Shortcomings: Enforcement efficiency is particularly negative, no data on mediation apart from family mediation is available.

7. RECOMMENDATIONS

Business-friendliness:

The cost for registering property should be decreased by 2 points to reach 5%. Moreover, a reduction of the time required to obtain all the licences necessary to operate should be envisaged and the cost of such licences should be sharply decreased.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Portugal, the court system efficiency is not adequate. Better use of the available resources, improvement of procedures and actions to increase productivity are required. Number of hearings and delays should be strictly monitored and active case management policies should be promoted at national, court and judge level, also in collaboration with relevant actors such as lawyers.

Additional recommendations:

Seeing the number of relevant on-going reforms, attention should be given to not destabilize too much the system. Reforms should be carefully monitored and evaluated.

Data collection in a way that can be compared with other EU judicial systems can be improved to monitor better the efficiency of the system in all case categories,.

ANNEX: COUNTRY-STATISTICS

First instance

Portugal	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	1,375,716	423,227	NA	952,489	NA	NA	NA	NA
	2008	1,351,870	364,641	NA	987,229	NAP	NAP	NA	NA
	2010	1493108	372085	NA	1121023	NAP	NAP	NA	NA
Incoming (number of cases)	2006	575325	282,590	NA	292,735	NA	NA	NA	NA
	2008	572657	314,729	NA	257,928	NAP	NAP	NA	NA
	2010	589286	314317	NA	274969	NAP	NAP	NA	NA
Resolved (number of cases)	2006	593,718	316,649	8,533	277,069	NA	NA	NA	NA
	2008	544,515	311,797	NA	232,718	NAP	NAP	NA	NA
	2010	520085	320267	NA	199818	NAP	NAP	NA	NA
Pending 31 Dec. (number of cases)	2006	1,357,323	389,168	NA	968,155	NA	NA	NA	NA
	2008	1,380,012	367,573	NA	1,012,439	NAP	NAP	NA	NA
	2010	1562309	366135	NA	1196174	NAP	NAP	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	103%	112%	NA	95%	NA	NA	NA	NA
CR	2008	95%	99%	NA	90%	NA	NA	NA	NA
CR	2010	88%	102%	NA	73%	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	834	449	NA	1275	NA	NA	NA	NA
DT (Days)	2008	925	430	NA	1588	NA	NA	NA	NA
DT (Days)	2010	1096	417	NA	2185	NA	NA	NA	NA

Second instance

Portugal	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	8,014	NA	NA	NA	NA	NA	NA	NA
	2008	6,068	NA	NA	NA	NAP	NAP	NA	NA
	2010	6399	NA	NA	NA	NAP	NAP	NA	NA
Incoming (number of cases)	2006	18756	NA	NA	NA	NA	NA	NA	NA
	2008	17751	NA	NA	NA	NAP	NAP	NA	NA
	2010	18099	NA	NA	NA	NAP	NAP	NA	NA
Resolved (number of cases)	2006	18,766	NA	NA	NA	NA	NA	NA	NA
	2008	17,869	NA	NA	NA	NAP	NAP	NA	NA
	2010	18009	NA	NA	NA	NAP	NAP	NA	NA
Pending 31 Dec. (number of cases)	2006	8,004	NA	NA	NA	NA	NA	NA	NA
	2008	5,950	NA	NA	NA	NAP	NAP	NA	NA
	2010	6492	NA	NA	NA	NAP	NAP	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	100%	NA	NA	NA	NA	NA	NA	NA
CR	2008	101%	NA	NA	NA	NA	NA	NA	NA
CR	2010	100%	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	156	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	122	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	132	NA	NA	NA	NA	NA	NA	NA

Highest instance

Portugal	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	886	NA	NA	NA	NA	NA	NA	NA
	2008	811	NA	NA	NA	NAP	NAP	NA	NA
	2010	706	NA	NA	NA	NAP	NAP	NAP	NA
Incoming (number of cases)	2006	3499	NA	NA	NA	NA	NA	NA	NA
	2008	2969	NA	NA	NA	NAP	NAP	NA	NA
	2010	2579	NA	NA	NA	NAP	NAP	NAP	NA
Resolved (number of cases)	2006	3,562	NA	NA	NA	NA	NA	NA	NA
	2008	3,025	NA	NA	NA	NAP	NAP	NA	NA
	2010	2716	NA	NA	NA	NAP	NAP	NAP	NA
Pending 31 Dec. (number of cases)	2006	823	NA	NA	NA	NA	NA	NA	NA
	2008	755	NA	NA	NA	NAP	NAP	NA	NA
	2010	569	NA	NA	NA	NAP	NAP	NAP	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	102%	NA	NA	NA	NA	NA	NA	NA
CR	2008	102%	NA	NA	NA	NA	NA	NA	NA
CR	2010	105%	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	84	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	91	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	76	NA	NA	NA	NA	NA	NA	NA



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

ROMANIA

Report
prepared by

Eric Dubois
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Report prepared for
the European Commission (Directorate General Justice)

22. ROMANIA

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Romania	EU27 Mean	Romania	EU27 Mean
Number of procedures	7	5	0 (0%)	1 (27%)
Time (days)	15	31	0 (0%)	9 (26%)
Cost (% of property value)	1.3	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	0	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	1786	2287	2479	1549

Disposition Time: 228 days (EU27 mean: 49 days / EU27 median: 24 days)

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Romania	EU27 Mean	Romania	EU27 Mean
Number of procedures	6	6	0 (0%)	1 (16%)
Time (days)	14	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	3.6	5.2	0.0 (0%)	0.8 (24%)
% of procedures possible by Internet	NA	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Romania	EU27 Mean
Time (years)	3.3	1.9
Cost (% of estate)	11.0	10.5
Recovery rate (%)	28.6	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	NA	5430
Number of firms	NA	NA
Ratio	NA	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Romania	EU27 Mean
Number	7.0	5.1
Time (days)	50	39
Cost (€)	373	309

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary²¹¹ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ²¹²
TOTAL annual approved budget allocated to the functioning of all courts	355,246,737	16.6	0.71%
Annual public budget allocated to (gross) salaries	181,192,857	8.5	0.36%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	774,286	0.04	0.002%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	71,190	0.003	0.0001%
Annual public budget allocated to court buildings (maintenance, operating costs)	33,529,762	1.6	0.07%
Annual public budget allocated to investments in new (court) buildings	11,571,429	0.5	0.02%
Annual public budget allocated to training and education	421,975	0.02	0.001%
Other	127,685,238	6.0	0.26%

The overall budget of the justice system is 569,175,715 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, Council of the judiciary, functioning of the Ministry of Justice and ensuring food and other social contributions for the persons in custody.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	4,081	4,081	20,620	NA	2,191	504
Number / population *100,000	19.0	19.0	96.2	NA	10.2	2.4
Number / State + Local annual expenditure in Billions	81.8	81.8	413.4	NA	43.9	10.1

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

There are 4,081 professional judges sitting in ordinary and administrative courts, including 1,872 at

²¹¹ Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law.

²¹² General government expenditure is based on 2010 Eurostat data.

first instance, 2,101 at second instance and 108 at highest instance. There are no professional judges sitting in courts on an occasional basis and no non-professional judges performing various judicial functions.

Non-judge staff

Of the 8,481 non-judge staff units of personnel who are working in ordinary and administrative courts, for 5,325 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts (clerks with judicial tasks). Another 1,427 are registering clerks, documentary clerks, statistician clerks, archivist clerks and public servants. Finally, there are 1,729 technical staff (IT staff, contractual personnel and drivers, ushers, procedural agents) and 544 other units: 83 assistance magistrates²¹³; 169 Judicial assistants²¹⁴; 292 Probation counselors²¹⁵.

Concerning the Rechtspfleger or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal: there is draft law approved by the Government and forwarded to the Parliament in October 2011 by the Ministry of Justice concerning the statute of the special staff within the courts and prosecutor's offices. This draft law aims at following up on the rethinking of the role of the auxiliary special staff within courts and prosecutor's offices, the empowerment of this category of staff and the efficient use of human resources existing at the level of the judicial system, by the transfer of some administrative and jurisdiction tasks in the non-contentious matter from magistrates to court clerks. According to the provisions of this regulatory act, there will be a new position in the judicial system, the function of judicial court clerk, on the European model of the court clerk with increased attributions (Rechtspfleger), in order to reduce the charges of the magistrates and to simplify certain procedures, thus being realised the transfer of some administrative and jurisdictional attributions in the non-contentious matter from judges to judicial court clerks.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 2.1.

Other actors of the non-criminal justice system

Lawyers: in civil and administrative cases, they have no monopoly on legal representation. Only the legal counsellors may represent legal persons in court in extra-criminal cases or in criminal cases regarding the civil aspect. This number does not include legal advisors.

Notaries: they are private professionals under the authority of public authorities. Notaries have duties in the framework of civil procedure, in the field of legal advice and to certify the authenticity of legal deeds and certificates. The authentication of the signatures and seals, the authentication of the copies of the documents, giving of certain date to the documents, the certification of some facts, the authentication of the translator's signature, the reception in deposit of documents and writs, protest acts of the protest bills, cheques and other securities, the issue of duplicates of the notarial documents, the reconstitution of the original documents are in their duties too.

Bailiffs acting as **enforcement agents**: they are bailiffs practicing as private professionals under the authority of public authorities. Bailiffs are invested to accomplish a service of public interest. The act accomplished by the bailiff, within the limits of the legal competences, bearing the stamp and signature of this one, as well as the registration number and date, is an act of public authority and has the evidential power stipulated by law. The bailiff has the following attributions: a) putting in to execution the provisions with civil character of the enforceable title; b) notifying the judicial and extrajudicial documents; c) service of the procedural documents; d) recovery on amiable way of any claim; e) applying the precautionary measures ordered by court; f) finding some states of fact in the conditions stipulated by the Civil Procedure Code; g) drawing up the finding reports, in the case of the real offer

²¹³ Assistance magistrates work only within the High Court of Cassation and Justice. They participate in the trial sessions, have a consultative vote in deliberations and write the minutes of the sessions, as well as the decisions.

²¹⁴ Judicial assistants work only within tribunals and are part, together with the judges, in the panels which judge, in first instance, cases regarding labour and social insurances litigations (the panel is composed of 2 judges and 2 judicial assistants), participate in deliberations with a consultative vote and sign the decisions.

²¹⁵ The probation counselors have, in principle, the following attributions: Support the activity of judges by elaborating certain evaluation documents in the criminal cases with juvenile offenders; Support the activity of the judge delegated with enforcing the decisions in criminal matter, by supervising the observance by the convicted person of the obligations established by the court in his/her duty; Cooperate with public institutions in order to execute the measure to force the minor to carry out an unpaid activity in an institution of public interest.; Initiate and carry on special programs of social reinsertion for persons convicted to prison, whose punishment was fully reprieved by law, as well as for the minors who committed offences provided by the criminal law, for whom the law removed the educative measure of internment in a re-education centre; Carry out, at request, activities of individual counselling of offenders, with regard to the social, group and individual behaviour; Initiate and carry out special programs of protection, social and judicial assistance of minors and youngsters who committed offences.

followed by the registration of the amount by the debtor, according to the provisions of the Civil Procedure Code; h) drawing up, according to law, the protest for the non-payment of the bills, promissory notes and cheques, as the case may be; i) any other acts or operations given by the law in his competence.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases/Professional judges sitting in courts full time	Incoming first instance non criminal cases/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases/ (judges and administrative personnel)
429	429	139

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are *no* electronic tools for case-management in the courts while there are electronic tools for tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Romania 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection are available in 100% of courts. As regards the electronic communication between courts and their institutional environment, the possibility to follow up on a case online and e-filing are available in 100% of courts, while the possibility of access to court electronic registers and using a service for the electronic processing of small claims and undisputed debt recovery are not available.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum).²¹⁶

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.

²¹⁶ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Romania	4.0	2.7	2.4	3.0
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Romania	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	88	99	NA	107
	DT 2008	99	158	15	127
	DT 2010	156	217	59	269
Second instance	DT 2006	134	148	NA	NA
	DT 2008	162	163	264	NA
	DT 2010	219	221	190	NA
Highest instance	DT 2006	81	86	NA	78
	DT 2008	95	95	69	98
	DT 2010	141	138	196	137

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Romania	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	91%	90%	99%	71%
	Second	92%	92%	102%	NA
	Highest	90%	92%	78%	83%

Romania	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	684141	571950	4756	52374
	Second	16252	15053	519	NAP
	Highest	82706	65568	293	9668

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

Overall, in the 2006-2010 period, the **total** number of other than criminal incoming cases rises by an average of 9.9% per year, from 1,202,168 in 2006 to 1,558,687 in 2008 to 1,751,088 in 2010, while the number of resolved cases rises by an average of 8.6% per year, from 1,152,328 in 2006 to 1,495,976 in 2008 to 1,600,580 in 2010. Disposition Time for other than criminal cases shows a negative trend, increasing by an average of 15.3% per year, from 88 days in 2006 to 99 days in 2008 to 156 days in 2010.

At the same time, the number of incoming **litigious civil and commercial** cases rises by an average of 18.4% per year, from 546,222 in 2006 to 706,381 in 2008 to 1,073,669 in 2010, while the number of resolved cases rises by an average of 16.6% per year, from 522,112 in 2006 to 664,608 in 2008 to 963,742 in 2010. Disposition Time shows a negative trend, increasing by an average of 21.6% per year, from 99 days in 2006 to 158 days in 2008 to 217 days in 2010.

2006 data on **non-litigious civil and commercial** cases is not available. In the period 2008-2010, the number of incoming non-litigious civil and commercial cases decreases by an average of 76.7% per year, from 547,401 in 2008 to 29,735 in 2010, while the number of resolved cases decreases by an average of 76.6% per year, from 538,830 in 2008 to 29,570 in 2010. In the same period Disposition Time shows a negative trend, increasing from 15 days in 2008 to 59 days in 2010.

Between 2006 and 2010, the number of incoming **administrative** cases decreases by an average of 8.2% per year, from 141,879 in 2006 to 208,327 in 2008 to 100,663 in 2010, while the number of resolved cases decreases by an average of 14.8% per year, from 134,975 in 2006 to 200,124 in 2008 to 71,110 in 2010. Disposition Time in administrative cases shows a negative trend, increasing by an average of 26.0% per year, from 107 days in 2006 to 127 days in 2008 to 269 days in 2010.



Compared to first instance Disposition Time values for the same years,²¹⁷ Disposition Time in 2008 and 2010 of civil and commercial non litigious cases at second instance courts (264 and 190 days respectively) and at highest instance courts (69 and 196 days) are high. All other available second and highest instance Disposition Time values are in line with the first instance Disposition time values for the same year.

Q11: Number, average duration and costs of non-criminal²¹⁸ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified	Pending	Incoming	Resolved	Pending	Disposition	Clearance	Court fees (€)
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²¹⁷ Comparison with first instance DT has been done according to the following formulas:

For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

²¹⁸ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Procedure	cases on 1 Jan.'10 (number of cases)	cases (number of cases)	cases (number of cases)	cases on 31 Dec'10 (number of cases)	Time (days)	Rate (%)	
Small claim	NA	NA	NA	NA	NA	NA	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	466614	1103404	993312	576706	212	90.0%	NA
litigious	462023	1073669	963742	571950	217	89.8%	NA
non-litigious	4591	29735	29570	4756	59	99.4%	NA

The ECRIS CDMS Courts is the courts' case management system which supports all the case-files, including payment orders and small claims. Each court has its own installation of the application and its own database of the case-files. Only the necessary data (information regarding case-file number, object, matter, parties, statistics) is exchanged between the different courts.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

UIHJ data: the average duration of a procedure of recognition of a judgment under the Brussels I Regulation (Regulation (EC) 44/2001 of 22 December 2000) is 6 months, while its average cost is 1% of the debt but not more than 1,000 euros. On the other hand, the average duration of an exequatur procedure of a judgment in civil and commercial matter coming from a non-EU country is 16 months, and its average cost is 1% of the debt but not more than 1,000 euros.

If a decision taken in civil and commercial matter from another State of European Union has been recognised in Romania under the Brussels I Regulation, and in absence of voluntary compliance by the debtor, the average percentage of decisions fully enforced is between 40 and 65 %. The percentage of decisions partially enforced is 20%. The average percentage of decisions whose implementation has not been possible due to the failure of the debtor is non applicable. The causes that prevented the enforcement of the court decision are (from the least frequent to the most frequent cause): the debtor has left no forwarding address or has no longer a known address; it was impossible to obtain information about the debtor's assets, including their location; the debtor is subject of bankruptcy proceedings or an equivalent procedure; the debtor is insolvent.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
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	cases)	cases)	cases)	cases)	cases)	cases)	cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

Total: 238, civil cases: 39, family cases:213, administrative cases: 6

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	466614	1103404	993312	576706	212	90.0%	NA
litigious	462023	1073669	963742	571950	217	89.8%	NA
non-litigious	4591	29735	29570	4756	59	99.4%	NA

The Romanian civil procedural legislation regulates, as alternative methods for the settlement of disputes, mediation, arbitration and conciliation.

Mediation: In the Romanian legislation, mediation is a young institution, being regulated by Law no. 192/2006 on mediation and organisation of the profession of mediator. The parties may have a voluntary recourse to mediation, including after the beginning of a trial in front of the competent courts, convening to settle in this way any conflicts in civil matters as well as in other matters. The provisions of Law no. 192/2006 also apply in the conflicts of the consumers' protection field. The judge has the duty to try, during the whole trial, the reconciliation of the parties, giving them the necessary instructions. When he considers necessary, taking into account the circumstances of the case, the judge shall recommend to the parties to have recourse to mediation, for the dispute settlement in amiable way, in any stage of the trial. In Romania, a court annexed mediation or a private mediator worked on civil and commercial cases, employment cases and family law cases (ex. divorce). There are 661 accredited or registered mediators who practice judicial mediation procedures in Romania. A possibility to receive legal aid for mediation procedure does exist.

Strengthening the legal framework of mediation has been a constant preoccupation, the last legislative modification providing as mandatory the participation to the informative session on mediation. Thus, unless the law provides otherwise, parties, natural or legal persons, are required to attend on the informative session on benefits mediation, including, if necessary, after the onset of a trial before competent courts to settle in this way to conflicts in civil, family, criminal and other matters, as provided by law. One should mention that the provisions regarding the obligation of the informative session shall enter into force on 1 February 2012 with the new Code of Civil Procedure.

Concerning arbitration: the arbitration procedure (arbitral convention, arbitrators, establishment of the arbitral court, notification of the arbitral court, arbitral procedure, arbitral judgment and its dissolution, enforcement of the arbitral judgment, international arbitration, recognition and enforcement of foreign arbitral judgments) is governed by the provisions of Art. 340-3703 of the Civil Procedure Code. According to the Romanian civil procedural law, there may be the object of arbitration the patrimonial disputes, except those concerning rights upon which law does not allow to make transaction (Art. 340 of the Civil Procedure Code).

	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Average length	Costs
Arbitration cases	NA	296	266	163	6 month	Lei 3 955 664, 03 And Euro

						906.447,00
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Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	7588	155357	154325	8620	20	99.3%
2008	8689	29690	27730	10649	140	93.4%
2010	42412	544734	533679	53467	37	98.0%

Data on first instance courts' enforcement procedure, in the period 2006-2010, shows a negative trend but also a consistent fluctuation, increasing by an average of 15.7% per year, from 20 days in 2006 to 140 days in 2008 to 37 days in 2010.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

UIHJ data: enforcement proceedings in domestic law: the average length of enforcement proceedings in civil and commercial matter is between 3 and 5 months. There is a maximum time to enforce a court decision in this matter: between 3 and 10 years or an another time limite if the court decision is different. The enforcement agent in charge of enforcing a court decision can grant the debtor installments for the payment of the debt. In this case, the average time granted to the debtor to execute the court decision is between 1 and 12 months.

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

UIHJ data: when a decision in civil and commercial matter must be brought into effect, failing voluntary compliance by the debtor, the average percentage of cases paid in full following enforcement is between 40 and 65 % and the percentage of part paid cases is 25%.

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

UIHJ data: data non-available for Romania.

According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is free²¹⁹ (Article 722 of the Code of Civil Procedure).

²¹⁹ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_ro_en.jsp?countrySession=27&

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	252	1 550	1 256	546	NA	NA	57
2008	851	2 115	2 027	939	NA	NA	52,7
2010	2167	4309	3464	3012	317	80.4%	61

The average length of the proceedings in employment dismissal cases in 2010 is not available. The % of pending cases for more than 3 years is not available. Data on employment dismissal procedure motivations are not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In the Romanian judicial system, there is the following hierarchical constitution of courts (categories of courts):

- courts of first instance, judging in first instance,
- law courts, which are generally courts of appeal but also judge in first instance and in appeal
- courts of appeal, which are appeal courts, but judge in the first instance and in appeal).
- HCCJ, unique and supreme court, mainly judge the appeals declared against the judgments of the courts of appeal and of other judgments, in the cases stipulated by law

The Civil Procedure Code – rules concerning the competence of the legal courts in the civil matter:

1. courts of first instance – have full competence for judging in first instance;
 - judge, in the first and last instance, the trials and requests concerning claims having as object the payment of an amount of money of at most 2.000 lei inclusively;
 - judge the complaints against the judgments of the public administration authorities with jurisdictional activity and of other bodies with such activity, in the cases stipulated by law;
2. law courts – have the competence to judge in first instance in the cases stipulated by law;
 - as courts of appeal, judge the appeals declared against judgments pronounced by the judges in the first instance;
 - as appeal courts, judge the appeals declared against the judgments pronounced by the courts of first instance which, according to law, are not submitted to the appeal;
3. the courts of appeal judge: - in first instance, the processes and requests in the matter of the contentious administrative concerning the acts of the central authorities and institutions;
 - as courts of appeal, the appeals declared against the judgments pronounced by the courts of first instance;
 - as appeal courts, the appeal declared against the judgments pronounced by the law courts in appeal or against the judgments pronounced in the first instance by law courts which, according to law, are not submitted to the appeal, as well as in any other cases expressly stipulated by law;
4. HCCJ mainly judges: - the appeal declared against the judgments of the courts of appeal and of other judgments, in the cases stipulated by law;
 - the appeals in the interest of law.

According to the law, in Romania, justice is rendered by the following categories of courts: the High Court of Cassation and Justice (1), appeal courts (15), tribunals (41), specialised courts (4), military courts (6) and first instance courts (179). All categories of courts have competence in first instance cases, but only the High Court of Cassation and Justice has competence in first instance cases only in criminal cases. According to the law, in Romania there are two appeals (first appeal and second appeal), the competence being rendered to tribunals, courts of appeal and the High Court of Cassation and Justice.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is not evaluated regularly in terms of performance and outputs. The main performance indicators at the level of the court system are: incoming cases, closed cases, pending cases and backlogs and productivity of judges and court staff. No performance targets are set at the level of the court. There are no specific quality standards for the judicial system as a whole. There are quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time is in place but there is no system to monitor waiting time during court procedures.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Romania	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

Progress made in 2011 with respect to the implementation of the new codes includes the following:

- The entry into force of the new Civil Code was one of the main objectives of the Ministry of Justice during 2011. Law 71/2011 for the implementation of Law 287/2009 regarding the Civil Code, as well as special primary and secondary regulations were adopted in view of the entry into force of the new Civil Code on October 1st 2011.
- Following the adoption of the new four codes, they continued the process of legislative reform in civil and criminal matters by beginning to prepare the judicial system for the implementation, in stages, of the codes – the new Civil Code, which, is already in force, as well as for the new Civil Procedure Code, Criminal Code and Criminal Procedure Code.
- The revision of the Romanian legal framework in civil and criminal matters was completed mainly by drafting the laws for the implementation of the civil and criminal procedure codes, as well as by drafting other legislative acts such as, the Draft Law on enforcement of punishments and measures involving deprivation of liberty, the Draft Law on enforcement of punishments, educational measures and measures not involving deprivation of liberty imposed by judicial bodies during criminal proceedings, the Draft Law on the setting up and functioning of the probation system.
- Carrying out the studies for the implementation of the new four codes.

Concerning legal professionals: the adoption of the new regulations on the disciplinary liability of the magistrates, as well as on the procedure for appointing magistrates at the High Court for Cassation

and Justice in 2011, in view of ensuring a coherent and transparent legal framework for the activity of judges and prosecutors.

Additional information provided by the European Commission:

In the run-up to the accession of Romania to the EU in 2007, it was agreed that further work was needed in key areas to address shortcomings in judicial reform and in the fight against corruption. This led to the establishment of a framework to support Romania and to monitor progress in these areas, the Cooperation and Verification Mechanism (CVM). Benchmarks were established in four areas: Judicial reform, integrity, the fight against high-level corruption, and the prevention and fight against corruption in the public sector. The Decision included regular reporting from the Commission, and provided that the mechanism will continue until the objectives of the CVM are met and all four benchmarks are satisfactorily fulfilled. Regarding the judicial system, the on-going reforms concern accountability, integrity and efficiency of the judicial process.

The last report adopted by the European Commission in the framework of the CVM (adopted on the 18.07.2012) raised concerns as regards to the respect for judicial independence, in relation to the pressure exercised in 2012 by members of the Romanian Government and senior politicians on the Constitutional Court. Furthermore, the Report recommends Romania to:

- Adopt and implement a joint comprehensive plan to ensure implementation of all four codes, including all relevant aspects of, structural and procedural reform, human resource adjustment, and investment into judicial infrastructure.
- Restructure the court system and prosecution offices, rebalancing staff and workload, guided notably by the functional review of the Romanian judicial system and the project on optimal workload in courts currently funded by the World Bank.
- Create a monitoring group for judicial reform that involves all state powers, professional associations and civil society.
- Agree a joint policy between the SCM and the Government to promote accountability and integrity within the judiciary through convincing disciplinary practice and jurisprudence, with clear milestones for implementation. Use the implementation of the new laws on disciplinary responsibility and promotion to the High Court to set an example for the judicial system as a whole.
- Ensure better coordination of legal, disciplinary and management instruments to protect the reputation of the judiciary in serious cases of misconduct, including decisions on individual rights, such as pensions.
- Strengthen the capacity and performance of the Judicial Inspection to both pursue judicial accountability through the follow-up of individual cases, and to promote judicial efficiency, consistency and good practice through regular reviews of practice at all levels of the judicial system.
- Develop a comprehensive approach to put in place the structures, procedures and practices needed to accelerate legal unification (coherence and consistency of judgments)..
- Make legal unification a management priority for court presidents and consistency an important element within the appraisal and promotion system of judges. Ensure the full, on-line publication and continuous update of motivated court decisions.
- Further reform the High Court to allow stronger focus on legal unification.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Romania is 355,246,737 € (neither public prosecution nor legal aid budget is included). This corresponds to 16.6 € per inhabitant,

compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.71% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Romania has 19.0 full time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 19.0 judges (this number includes full time professional judges, professional judges sitting in courts on an occasional basis, non professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 58.6 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 96.2, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full time professional judges is 5.1, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 8.2, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 5.0, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Romania is 156.0 days, which corresponds to 0.63 times the EU27 average Disposition Time and 1.06 times the EU27 median Disposition Time. The situation is worsening compared to the 98.9 days in 2008 and to the 88.3 days in 2006. The Clearance Rate in 2010 is 91.4%, which means that the pending cases are increasing and the number of resolved cases should be increased to stabilise the system.

As Disposition Time for the litigious civil and commercial cases is concerned, in 2010 it is 216.6 days, which corresponds to 0.76 times the EU27 average Disposition Time and 1.00 times the EU27 median Disposition Time. The situation is worsening compared to the 158.0 days in 2008 and to the 99.2 days in 2006. The Clearance Rate in 2010 is 89.8%, which means that the pending cases are increasing and the number of resolved cases should be increased to stabilise the system.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean²²⁰.

		Romania			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	7	15	1.3	5	31	4.9
Starting business		6	14*	3.6	6	14	5.2
Licences		7.0	50*	373	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate²²¹.

		Romania			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		3.3	11.0	28.6	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

²²⁰ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

²²¹ See the methodological note for more details on this assessment.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Romania	16.6	0.71%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Romania is below the EU27 mean considering the Euro per inhabitant allocated, while it is above it considering the percentage of public expenditure.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Romania	19.0	19.0	58.6	96.2	5.1
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel and lawyers per 100,000 inhabitants, and the lawyers/professional judges ratio, are in line with the EU27 mean.

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Romania	8.2	5.0
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As the court system's caseload is concerned, the number of other than criminal cases per 100 inhabitants is in line with the EU27 mean, while the number of litigious civil and commercial cases is higher.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
Romania	88.3	98.9	156.0	91.40%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is below the EU27 mean. At the same time, it is a worsening if compared to that of the previous years. Furthermore, the Clearance Rate is below 95% which means that the system is not capable of dealing with all the incoming cases.

	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
First instance courts				
Romania	99.2	158.0	216.6	89.76%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 below the EU27 mean. Similarly to the total number of other than criminal cases, the situation is worse than in the previous years. Furthermore, here the Clearance Rate is below 90%.

The efficiency of the system as far as the main categories of cases are concerned is adequate in terms of Disposition Time, but not adequate in terms of Clearance Rate.

Additional Shortcomings: there is no system to monitor waiting time during court procedures; the efficiency of the courts is not evaluated regularly; there are no specific quality standards for the judicial system as a whole.

7. RECOMMENDATIONS

Business-friendliness:

The procedure for registering property should be simplified by removing 1 or 2 steps. Moreover, the time of insolvency and bankruptcy procedures should be sharply reduced with a duration of 2 years as an objective. The recovery rate from such procedures should also be sharply increased with a rate of 80% as an objective. Finally, a simplification of the licences system should be envisaged as a reduction of the time required to obtain all the licences necessary to operate and the cost of such licences.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Romania, data on the judicial system efficiency shows that at present the situation is adequate as far as Disposition Time is concerned, but productivity should be increased to cope with the negative CR. The high level of litigiousity in civil and commercial cases should be investigated more in depth, also with user surveys. Consistency of judicial decisions and predictability of the outcomes of cases should be assessed. The strengthening of ADR should also be actively pursued.

Additional recommendations:

Monitoring and evaluating systems should be developed. The court efficiency in qualitative and quantitative terms should be evaluated regularly.

ICT for case management and for communication between courts and their environment should be further developed.

ANNEX: COUNTRY-STATISTICS

First instance

Romania	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	228,936	117,821	NA	7,588	-	-	32,566	70,961
	2008	348,318	245,995	18,519	8,689	19,556	6,094	61,226	22,578
	2010	533633	462023	4591	42412	1786	NA	22821	NAP
Incoming (number of cases)	2006	1202168	546,222	-	155,357	-	-	141,879	358,710
	2008	1558687	706,381	547,401	29,690	32,561	459,965	208,327	96,578
	2010	1751088	1073669	29735	544734	2287	NA	100663	NAP
Resolved (number of cases)	2006	1,152,328	522,112	-	154,325	-	-	134,975	340,916
	2008	1,495,976	664,608	538,830	27,730	33,603	453,594	200,124	NAP
	2010	1600580	963742	29570	533679	2479	NA	71110	NAP
Pending 31 Dec. (number of cases)	2006	278,776	141,931	-	8,620	-	-	39,470	88,755
	2008	405,429	287,768	21,490	10,649	18,514	6,865	69,429	26,742
	2010	684141	571950	4756	53467	1594	NA	52374	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	96%	96%	NA	99%	NA	NA	95%	95%
CR	2008	96%	94%	98%	93%	103%	99%	96%	NA
CR	2010	91%	90%	99%	98%	108%	NA	71%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	88	99	NA	20	NA	NA	107	95
DT (Days)	2008	99	158	15	140	201	6	127	NA
DT (Days)	2010	156	217	59	37	235	NA	269	NA

Second instance

Romania	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	21,327	15,857	-	991	-	-	-	4,479
	2008	13,859	13,438	541	126	253	NAP	NAP	359
	2010	13,920	12,924	541	47	408	NAP	NAP	NAP
Incoming (number of cases)	2006	35,799	24,093	-	695	-	-	-	11,011
	2008	32,390	31,612	57	213	322	NAP	NAP	721
	2010	29,423	27,039	975	109	1,300	NAP	NAP	NAP
Resolved (number of cases)	2006	41,804	28,421	-	1,281	-	-	-	12,102
	2008	32,006	31,153	69	229	345	NAP	NAP	784
	2010	27,091	24,910	997	97	1,087	NAP	NAP	NAP
Pending 31 Dec. (number of cases)	2006	15,322	11,529	-	405	-	-	-	3,388
	2008	14,243	13,897	50	110	230	NAP	NAP	296
	2010	16,252	15,053	519	59	621	NAP	NAP	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	117%	118%	NA	184%	NA	NA	NA	110%
CR	2008	99%	99%	121%	108%	107%	NA	NA	109%
CR	2010	92%	92%	102%	89%	84%	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	134	148	NA	115	NA	NA	NA	102
DT (Days)	2008	162	163	264	175	243	NA	NA	138
DT (Days)	2010	219	221	190	222	209	NA	NA	NA

Highest instance

Romania	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	40,598	33,958	-	469	-	-	6,171	7,134
	2008	36633	31306	75	2142	139	NAP	2971	NA
	2010	58594	49544	135	4223	183	NA	4509	NAP
Incoming (number of cases)	2006	183863	112,141	-	828	-	-	42,356	28,538
	2008	204898	177175	522	8420	547	NAP	18234	NA
	2010	238386	189826	705	16485	473	NA	30897	NAP
Resolved (number of cases)	2006	184,495	118,275	-	1,070	-	-	34,899	30,251
	2008	191603	165586	502	8256	551	NAP	16708	NA
	2010	214274	173802	547	13693	494	NA	25738	NAP
Pending 31 Dec. (number of cases)	2006	40,929	27,824	-	227	-	-	7,457	5,421
	2008	49928	42895	95	2306	135	NAP	4497	NA
	2010	82706	65568	293	7015	162	NA	9668	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	100%	105%	NA	129%	NA	NA	82%	106%
CR	2008	94%	93%	96%	98%	101%	NA	92%	NA
CR	2010	90%	92%	78%	83%	104%	NA	83%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	81	86	NA	77	NA	NA	78	65
DT (Days)	2008	95	95	69	102	89	NA	98	NA
DT (Days)	2010	141	138	196	187	120	NA	137	NA

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

SLOVAKIA

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

23. SLOVAKIA

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Slovakia	EU27 Mean	Slovakia	EU27 Mean
Number of procedures	3	5	1 (33%)	1 (27%)
Time (days)	17	31	1 (6%)	9 (26%)
Cost (% of property value)	0.0	4.9	0.0 (%)	1.1 (21%)
% of procedures possible by Internet	67	43	100	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Slovakia	EU27 Mean	Slovakia	EU27 Mean
Number of procedures	6	6	2 (33%)	1 (16%)
Time (days)	16	14	6 (38%)	2 (17%)
Cost (% of per capita GNI)	1.5	5.2	1.3 (88%)	0.8 (24%)
% of procedures possible by Internet	100	83	100	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	4746	78934	82159	1521

Disposition Time: 7 days (EU27 mean: 112 days / EU27 median: 10 days)

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Slovakia	EU27 Mean
Time (years)	4.0	1.9
Cost (% of estate)	18.0	10.5
Recovery rate (%)	54.3	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	887	830
Number of firms	593219	NA
Ratio	0.1	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Slovakia	EU27 Mean
Number	3.8	5.1
Time (days)	30	39
Cost (€)	225	309

The OECD reports an index of 2 which places Slovakia in the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary²²² and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ²²³
TOTAL annual approved budget allocated to the functioning of all courts	139,851,564	25.7	0.53%
Annual public budget allocated to (gross) salaries	90,173,951	16.6	0.34%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	2,152,994	0.4	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	312,818	0.1	0.001%
Annual public budget allocated to court buildings (maintenance, operating costs)	8,900,352	1.6	0.03%
Annual public budget allocated to investments in new (court) buildings	NAP	NA	NA
Annual public budget allocated to training and education	1,336,296	0.2	0.01%
Other	36,975,153	6.8	0.14%

The overall budget of the justice system is 278,261,799 euros. This includes the budget for the court system, legal aid, prison system, probation services, Council of the judiciary, functioning of the Ministry of Justice, refugees and asylum seekers and the budget for the Judicial Academy, the educational and training institution for judges and the court staff.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	1,351	2,164	4,546	109	335	305
Number / population *100,000	24.9	39.8	83.6	2.0	6.2	5.6

²²² Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law.

²²³ General government expenditure is based on 2010 Eurostat data.

Number / State + Local annual expenditure in Billions	51.3	82.2	172.7	4.1	12.7	11.6
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Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

Judges

There are 1,351 professional judges sitting in ordinary and administrative courts²²⁴, including 908 at first instance, 363 at second instance and 80 at highest instance. There are no professional judges sitting in courts on an occasional basis. As stipulated by the Code of the Criminal Proceedings, lay judges perform their non-professional judicial function only in the first instance criminal cases. They receive only defrayal of their costs. The president of every District court determines the adequate number of the lay judges for its district. Nor the Ministry of Justice neither any other body collect the data on the numbers of the lay judges.

Non-judge staff

Of the 4,468 non-judge staff units of personnel who are working in ordinary and administrative courts, for 2,086 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 1,569 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). In Slovakia, there are 813 Rechtspfleger or similar bodies with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal (738 higher court officers and 75 mediation and probation officers). A higher court officer, by virtue of a written authorisation from a judge, is a civil servant who has the power to execute judicial acts in civil and criminal proceedings and autonomously take decisions on the scale laid down by law. He is also authorised to carry out actions independently which are connected with the preparation of hearings, the determination of conditions for the issue of in absentia judgements, judgments based on the recognition or waiving of an entitlement and the preparation of written copy of the judgments.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 3.3.

Other actors of the non-criminal justice system

Lawyers: there are 109 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC. In administrative cases, they have a monopoly only in certain types of cases. In civil cases, a litigant can be represented before the court by trade unions in the labour law disputes, by special legal persons or by any individual who has full capacity to do legal acts. Such a representation is not possible in the proceedings on extraordinary appeals (or extraordinary remedies). The litigant bringing the extraordinary appeal (remedy) must be represented before the court by a lawyer, unless he/she or his/her employee (staff member) who acts on his/her behalf holds a degree in law. This number does not include legal advisors.

Notaries: they are private professionals under the authority of public authorities. Notaries have duties in the framework of civil procedure, in the field of legal advice, to certify the authenticity of legal deeds and certificates and other duties (mediation, arbitration, notarial custody, procedures related to the Notarial Central Registries, drawing up and delivering of notarial deeds on the legal acts, representation in the land registry (cadastral) proceedings).

Bailiffs acting as **enforcement agents:** they are bailiffs practicing as private professionals under the authority of the public authorities. A distrainer is a person appointed and empowered by the state to enforce the court rulings and other decisions. In connection with enforcement activities, he/she has the status of a public official, and the efficiency of enforcement activities is regarded as the exercise of official authority. A distrainer carries out enforcement pursuant to authorisation issued by a court of enforcement.

²²⁴ The number 1351 represents the judges actually performing its function on 31 December 2010. The total number of the judges in the evidence of the Ministry of Justice is 1387. This total number includes also the judges not performing the function of a judge e.g. the judges temporary assigned to the other institution (Ministry of Justice, Judicial Academy, other judicial institutions), the judges on the maternity leave etc.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases/Professional Judges sitting in courts full time	Incoming first instance non criminal cases/Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases/ (judges and administrative personnel)
449	280	104

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Slovakia 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, e-mail, Internet connection are available in 100% of courts, while electronic files are available in less than 10% of courts. As to the electronic communication between the courts and their institutional environment, the possibility of access to court electronic registers and e-filing is available in 100% of courts (under the Code of Civil Proceedings of the Slovak Republic, any filing to the court can be made electronically with the electronic signature); the possibility to follow up on a case online is available in less than 10% of courts; the possibility to use a service for the electronic processing of small claims and undisputed debt recovery is not available in the courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):²²⁵

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.

²²⁵ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Slovakia	4.0	4.0	2.0	3.3
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Slovakia	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	310	387	229	299
	DT 2008	137	346	212	316
	DT 2010	170	364	178	66
Second instance	DT 2006	154	164	105	156
	DT 2008	107	NA	NA	104
	DT 2010	124	NA	NA	79
Highest instance	DT 2006	145	NA	NA	190
	DT 2008	150	NA	NA	161
	DT 2010	120	NA	NA	123

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

The number of hearings is not available for Slovakia because the sections on the Judicial Informatics and Statistics do not keep the data of the average number of hearings.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Slovakia	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	106%	98%	105%	102%
	Second	91%	NA	NA	109%
	Highest	104%	NA	NA	111%

Slovakia	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	299978	122916	65801	7838
	Second	14096	NA	NA	8
	Highest	2617	NA	NA	1207

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

In the 2006-2010 period, the **total** number of other than criminal incoming cases rises by an average of 25.0% per year, from 248,507 in 2006 to 1,014,863 in 2008 to 606,454 in 2010, while the number of resolved cases rises by an average of 22.9% per year, from 281,862 in 2006 to 1,046,081 in 2008 to 643,917 in 2010. Disposition Time for other than criminal cases shows a positive but not consistent trend, decreasing by an average of 14.0% per year, from 310 days in 2006 to 137 days in 2008 to 170 days in 2010.

At the same time, the number of incoming **litigious civil and commercial** cases rises by an average of 0.8% per year, from 122,002 in 2006 to 128,924 in 2008 to 126,087 in 2010, while the number of resolved cases decreases by an average of 3.1% per year, going first up from 139,767 in 2006 to 140,626 in 2008, but then decreasing to 123,203 in 2010. Disposition Time shows a stable situation, decreasing by an average of 1.5% per year, going initially down from 387 days in 2006 to 346 days in 2008 but then rising again to 364 days in 2010.

The number of incoming **non-litigious civil and commercial** cases rises by an average of 2.5% per year, from 115,984 in 2006 to 124,705 in 2008 to 128,216 in 2010, while the number of resolved cases rises by an average of 0.8% per year, going initially down from 130,491 in 2006 to 124,214 in 2008 but then rising to 134,943 in 2010. Disposition Time in non-litigious civil and commercial cases shows a positive trend, decreasing by an average of 6.1% per year, from 229 days in 2006 to 212 days in 2008 to 178 days in 2010.

The number of incoming **administrative** cases rises by an average of 41.5% per year, from 10,521 in 2006 to 10,883 in 2008 to 42,220 in 2010, while the number of resolved cases rises by an average of 38.8% per year, decreasing initially from 11,604 in 2006 to 10,485 in 2008 but then rising to 43,115 in 2010. Disposition Time in administrative cases shows a positive but not consistent trend, decreasing by an average of 31.4% per year, increasing initially from 299 days in 2006 to 316 days in 2008 but then decreasing to 66 days in 2010.



Compared to first instance Disposition Time values for the same years,²²⁶ Disposition Time of second instance courts in 2006 for the total number of other than criminal cases (154 days) civil and commercial litigious cases (164 days), civil and commercial non litigious cases (105 days), and 2008 administrative cases (105 days) are low. All other available second instance Disposition Time values are in line with the first instance Disposition time values for the same year. Also Disposition Time value of highest instance courts for the total number of other than criminal cases in 2006 (145 days) is comparatively low, while Disposition Time value of administrative cases in 2010 (123 days) is comparatively high. The latter result is due to a very low Disposition Time of first instance courts administrative cases in 2010 (66 days, compared to the 316 of 2008). All other available highest instance Disposition Time values are in line with the first instance Disposition time values for the same year.

²²⁶ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

Q11: Number, average duration and costs of non-criminal²²⁷ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	NA	NA	NA	NA	NA	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	95018	2153459	222951	87436	143	10.4%	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	192560	254303	258146	188717	267	101.5%	NA
litigious	120032	126087	123203	122916	364	97.7%	NA
non-litigious	72528	128216	134943	65801	178	105.2%	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Slovakia

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

²²⁷ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data along these 4 types of litigation.

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	192560	254303	258146	188717	267	101.5%	NA
litigious	120032	126087	123203	122916	364	97.7%	NA
non-litigious	72528	128216	134943	65801	178	105.2%	NA

Mediation: in Slovakia, a private mediator worked on civil and commercial cases, employment cases and family law cases (ex. divorce). A possibility to receive legal aid for mediation procedure does exist. When the person is awarded the legal aid by the means of the Legal aid Centre, this legal aid covers also the possibility to solve the dispute in the mediation procedure. There are 491 accredited or registered mediators who practice judicial mediation procedures.

Arbitration: the Act on Arbitration Proceedings (No. 244/2002 Coll.) offers the possibility to solve the disputes arisen from internal and international civil and commercial legal relations. The contractual parties should conclude written arbitration clause, pursuant to which their disputes should be decided by chosen arbitrator or by permanent arbitration court. The Ministry of Justice keeps the list of permanent arbitration courts. The parties may agree on procedural rules, otherwise the standard rules determined by the Act should apply. The decision of an arbitrator can be challenged by an action before the court on the grounds stipulated in the Act and within the period of 30 days counted from the day of service of the decision.

Conciliation: any person can file to a court a motion for the conciliation proceedings, which is a type of pre-trial settlement. The proceeding is conducted by a single judge. The purpose of the conciliation is to settle a dispute by the pre-trial settlement, which has to be approved by a judge.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	136467	5043	90597	50913	205	1796.5%
2008	20137	4450	12984	7598	214	291.8%
2010	3938	409	1733	2614	551	423.7%

Data on first instance courts' enforcement procedure, in the period 2006-2010, shows a negative Disposition Time trend, with an increase by an average of 28.0% per year, from 205 days in 2006 to 214 days in 2008 to 551 days in 2010, in front of a consistent reduction in the number of cases.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Slovakia

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Slovakia

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for Slovakia

According to the European Judicial Atlas in Civil Matters, concerning the fees for the service of documents under Regulation 1393/2007: in principle the service is carried out by the requested courts. However, a court may, under certain circumstances, commission a bailiff to serve the documents. In such a case, the bailiff's fee is fixed at 6,64 € per served document²²⁸.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	2 462	NA	NA	NA	26,84
2008	NA	NA	1 650	NA	NA	NA	34,42
2010	NA	NA	NA	NA	NA	NA	NA

The average length of proceedings in employment dismissal cases in 2010 is not available. The % of pending cases for more than 3 years is not available.

Data on employment dismissal procedure motivations is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Slovakia there are:

First instance courts

- District court (in Slovak "Okresný súd") - 54
- Regional court (in Slovak "Krajský súd") - 8
- Specialised Criminal Court (in Slovak "Špecializovaný trestný súd") - 1

Second instance courts

- Regional court (in Slovak "Krajský súd") - 8
- The Supreme Court of the Slovak Republic (in Slovak "Najvyšší súd Slovenskej republiky")

²²⁸ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_sk_en.jsp

Highest instance court

- The Supreme Court of the Slovak Republic (in Slovak "Najvyšší súd Slovenskej republiky")

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs. The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), closed cases and pending cases and backlogs. Performance targets are set at the level of the court. There are specific quality standards for the judicial system as a whole. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time is in place but there is no system to monitor waiting time during court procedures.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Slovakia	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

In 2011, the National Council of the Slovak Republic (Parliament) has adopted several important amendments to the acts governing the positions of judges and prosecutors, the functioning of the courts and the Judicial Council of the Slovak Republic. Some of the changes has been challenged by the Prosecutor General before the Constitutional Court of the Slovak Republic.

The new adopted legislation effective since May 2011 includes changes in the recruitment procedure of judges and changes in the disciplinary proceedings. From 1 January 2012, the new system of the evaluation of judges shall apply.

Concerning enforcement of court decisions: from 1 January 2012, the new regulation on the enforcement of the decisions on the upbringing of the minor child will be effective.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Slovakia is 139,851,564 € (neither public prosecution nor legal aid budget is included). This corresponds to 25.7 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.53% of the general

government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As human resources are concerned, Slovakia has 24.9 full time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 39.8 judges (this number includes full time professional judges, professional judges sitting in courts on an occasional basis, non professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 107.1 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 83.6, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full time professional judges is 3.4, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 11.2, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 2.3, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Slovakia is 170.0 days, which corresponds to 0.68 times the EU27 average Disposition Time and 1.15 times the EU27 median Disposition Time. The situation is worsening compared to the 137.0 days in 2008. At the same time, the situation in 2010 is an improvement on the 310.5 days in 2006. The Clearance Rate in 2010 is 106.2%, which means that the pending cases are decreasing and the situation is improving.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 364.1 days, which corresponds to 1.28 times the EU27 average Disposition Time and 1.69 times the EU27 median Disposition Time. The situation is worsening compared to the 346.3 days in 2008. At the same time, the situation in 2010 is an improvement compared to the 387.2 days in 2006. The Clearance Rate in 2010 is 97.7%, which means that the pending cases are increasing slightly but the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can

be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean²²⁹.

		Slovakia			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	3	17	0.0	5	31	4.9
Starting business		6	16*	1.5	6	14	5.2
Licences		3.8	30*	225	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate²³⁰.

		Slovakia			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		4.0	18.0	54.3	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Slovakia	25.7	0.53%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Slovakia is in line with the EU27 mean.

Judges / 100,000	Judge-like	Judges and Lawyers /	Lawyers /
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²²⁹ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

²³⁰ See the methodological note for more details on this assessment.

	inhabitants	agents/ 100,000 inhabitants	administrative personnel/ 100,000 inhabitants	100,000 inhabitants	judges
Slovakia	24.9	39.8	107.1	83.6	3.4
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges, administrative personnel and lawyers per 100,000 inhabitants, and the lawyers/professional judges ratio, are in line with the EU27 mean.

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Slovakia	11.2	2.3
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, the number of other than criminal cases and the number of litigious civil and commercial cases per 100 inhabitants are in line with the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Slovakia	310.5	137.0	170.0	106.18%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is adequate, being below the EU27 mean and the Clearance Rate is more than 105% which means that the system is capable of dealing with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Slovakia	387.2	346.3	364.1	97.71%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is not adequate, being above the EU27 mean. The Clearance Rate is about 100% which means that the situation is stable and the system is capable of dealing with the incoming cases though not improving.

The efficiency of the system as far as the main categories of cases are concerned is between adequate and not adequate.

Additional Shortcomings: Data on enforcement should be checked. There is no data on mediation and ADR. Data on number of hearing is not collected and analysed.

7. RECOMMENDATIONS

Business-friendliness:

The time of insolvency and bankruptcy procedures should be sharply reduced with a duration of 2 years as an objective. The cost of such procedures should also be sharply decreased with a cost of 10% as an objective.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too

high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Slovakia, the court system is performing between adequate and not adequate. Attention should be paid to litigious civil and commercial cases.

Additional recommendations:

Data collection can be improved in order to monitor better the efficiency of the system in all case categories and for better comparison with other EU judicial systems.

Data quality should be assessed.

Data on mediation and ADR should be collected and analysed. Data on number of hearing should be collected and analysed.

ICT for communication between courts and their environment should be further developed.

ANNEX: COUNTRY-STATISTICS

First instance

Slovakia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	273,095	166,041	96,464	136,467	NAP	13,906	10,590	131,963
	2008	423,946	145,118	71,674	20,137	NAP	9,923	8,684	168,410
	2010	337441	120032	72528	3938	NAP	34430	8733	97770
Incoming (number of cases)	2006	248507	122,002	115,984	5,043	NAP	68,561	10,521	210,611
	2008	1014863	128,924	124,705	4,450	NAP	83,832	10,883	666,074
	2010	606454	126087	128216	409	NAP	91567	42220	217955
Resolved (number of cases)	2006	281,862	139,767	130,491	90,597	x	70,266	11,604	217,965
	2008	1,046,081	140,626	124,214	12,984	nap	84,629	10,485	225181
	2010	643917	123203	134943	1733	NAP	115742	43115	225181
Pending 31 Dec. (number of cases)	2006	239,740	148,276	81,957	50,913	NAP	12,201	9,507	124,609
	2008	392,728	133,416	72,165	7,598	NAP	9,126	9,082	161,341
	2010	299978	122916	65801	2614	NAP	10255	7838	90554

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	113%	115%	113%	1796%	NA	102%	110%	103%
CR	2008	103%	109%	100%	292%	NA	101%	96%	34%
CR	2010	106%	98%	105%	424%	NA	126%	102%	103%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	310	387	229	205	NA	63	299	209
DT (Days)	2008	137	346	212	214	NA	39	316	262
DT (Days)	2010	170	364	178	551	NA	32	66	147

Second instance

Slovakia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	9,404	8,217	1,144	1,706	NA	NA	43	13
	2008	10,494	NA	NA	NA	NA	NA	35	20
	2010	10239	NA	NA	NA	NAP	NA	8	NA
Incoming (number of cases)	2006	28412	23,865	4,483	5,495	NA	NA	64	162
	2008	31534	NA	NA	NA	NA	NA	37	132
	2010	45202	NA	NA	NA	NAP	NA	34	NA
Resolved (number of cases)	2006	26,576	22,127	4,374	5,480	NA	NA	75	145
	2008	32,451	NA	NA	NA	NA	NA	56	123
	2010	41345	NA	NA	NA	NAP	NA	37	NA
Pending 31 Dec. (number of cases)	2006	11,240	9,955	1,253	1,721	NA	NA	32	30
	2008	9,521	NA	NA	NA	NA	NA	16	29
	2010	14096	NA	NA	NA	NAP	NA	8	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	94%	93%	98%	100%	NA	NA	117%	90%
CR	2008	103%	NA	NA	NA	NA	NA	151%	93%
CR	2010	91%	NA	NA	NA	NA	NA	109%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	154	164	105	115	NA	NA	156	76
DT (Days)	2008	107	NA	NA	NA	NA	NA	104	86
DT (Days)	2010	124	NA	NA	NA	NA	NA	79	NA

Highest instance

Slovakia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	3,990	NA	NA	NA	NA	NA	1,681	NA
	2008	2,626	NA	NA	NA	NA	NA	1,003	NA
	2010	2950	NA	NA	NA	NAP	NA	1572	NA
Incoming (number of cases)	2006	8386	NA	NA	NA	NA	NA	2,751	NA
	2008	7466	NA	NA	NA	NA	NA	3,379	NA
	2010	7612	NA	NA	NA	NAP	NA	3210	NA
Resolved (number of cases)	2006	8,850	NA	NA	NA	NA	NA	2,916	NA
	2008	7,148	NA	NA	NA	NA	NA	3,038	NA
	2010	7945	NA	NA	NA	NAP	NA	3575	NA
Pending 31 Dec. (number of cases)	2006	3,526	NA	NA	NA	NA	NA	1,516	NA
	2008	2,944	NA	NA	NA	NA	NA	1,344	NA
	2010	2617	NA	NA	NA	NAP	NA	1207	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	106%	NA	NA	NA	NA	NA	106%	NA
CR	2008	96%	NA	NA	NA	NA	NA	90%	NA
CR	2010	104%	NA	NA	NA	NA	NA	111%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	145	NA	NA	NA	NA	NA	190	NA
DT (Days)	2008	150	NA	NA	NA	NA	NA	161	NA
DT (Days)	2010	120	NA	NA	NA	NA	NA	123	NA



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

SLOVENIA

Report
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Report prepared for
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24. SLOVENIA

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Slovenia	EU27 Mean	Slovenia	EU27 Mean
Number of procedures	5	5	1 (20%)	1 (27%)
Time (days)	110	31	1 (1%)	9 (26%)
Cost (% of property value)	2.0	4.9	0.0 (2%)	1.1 (21%)
% of procedures possible by Internet	100	43	100	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	44160	271328	266091	49397

Disposition Time: 68 days (EU27 mean: 49 days / EU27 median: 24 days)

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Slovenia	EU27 Mean	Slovenia	EU27 Mean
Number of procedures	2	6	0 (0%)	1 (16%)
Time (days)	6	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	0.0	5.2	0.0 (0%)	0.8 (24%)
% of procedures possible by Internet	100	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	394	44960	44795	559

Disposition Time: 5 days (EU27 mean: 112 days / EU27 median: 10 days)

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Slovenia	EU27 Mean
Time (years)	2.0	1.9
Cost (% of estate)	4.0	10.5
Recovery rate (%)	51.1	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	NA	510
Number of firms	NA	NA
Ratio	NA	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Slovenia	EU27 Mean
Number	7.0	5.1
Time (days)	50	39
Cost (€)	471	309

The OECD reports an index of 0 which places Slovenia below the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary²³¹ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ²³²
TOTAL annual approved budget allocated to the functioning of all courts	178,158,919	86.9	1.00%
Annual public budget allocated to (gross) salaries	126,167,405	61.5	0.71%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	4,074,203	2.0	0.02%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	37,976,296	18.5	0.21%
Annual public budget allocated to court buildings (maintenance, operating costs)	7,634,034	3.7	0.04%
Annual public budget allocated to investments in new (court) buildings	1,077,240	0.5	0.01%
Annual public budget allocated to training and education	1,229,741	0.6	0.01%
Other	NA	NA	NA

The overall budget of the justice system is 263,000,000 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, Council of the judiciary, judicial protection of juveniles, functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	1,024	4,905 (1460 excluding lay judges)	1,294	12	93	46
Number / population *100,000	49.9	239.2 (71.2 excluding lay judges)	63.1	0.6	4.5	2.2
Number / State + Local annual expenditure in Billions	57.5	275.6 (82.0 excluding lay judges)	72.7	0.7	5.2	2.6

²³¹ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

²³² General government expenditure is based on 2010 Eurostat data.

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

Judges

There are 1,024 professional judges posts (slightly less of 80% are females), including 793 at first instance, 192 at second instance and 37 at highest instance. According to the Ministry of Justice estimations, between 15 and 20% of all judicial posts are de facto vacant, since the judge is actually absent due to e.g. maternity leave. There are no professional judges sitting in courts on an occasional basis. In addition to professional judges, in Slovenia there is a pool of 3,445 of people from which lay judges are drawn. Lay judges take part to panels of judges in serious criminal cases and labour and social disputes. Since the change in law in 2008, lay judges are not involved in civil trials anymore. Although lay judges have a full capacity of a judge as members of a panel of judges, they cannot hear cases on their own and therefore none of the cases can be solved by them without the presence of the professional judge, who also takes care of all the procedures, writing the judgment etc.

Non-judge staff

In 2010, there are 3,274 non judge staff working in courts of all instances²³³ including 18 secretaries of courts²³⁴, 398 senior judicial advisers²³⁵ and 2,858 other court staff²³⁶. Judicial advisers are non-judge staff whose task is to assist the judges, since they perform the work connected with the hearings of parties, witnesses and experts, perform more complex preparatory work for the main trial proceedings, report at the panel sessions, draft decisions, conduct the main trial proceedings under the guidance of the judge and perform other work under the order of the judge.

Otherwise, there are 436 court clerks working in courts. Court clerks are similar to the Rechtspfleger, since they have autonomous competence and their decisions can be subject to appeal. Independent judicial assistants and higher judicial assistants lead the proceedings and decide in matters of the commercial court register, they lead enforcement proceedings and issue decisions on enforcement for the recovery of monetary debts, on enforcement on the basis of authentic documents as well as decisions about advance payments, security deposits, costs of the proceedings and court fees. At first instance, they decide upon land registration in cases where the registration is not in the competence of the judge of the land register court and decide in inheritance cases of intestate succession, when the object of succession is only a movable property.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 3.2.

Other actors of the non-criminal justice system

Lawyers: there are 12 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC). In civil cases, the Civil Procedure Act gives the right to appear in Court of First Instance to everyone who is capable to contract (in County Court), but only to lawyers or individuals who passed the Legal State Exam (in District Court). Before Higher Court (second instance) and Supreme Court (third instance), only the lawyers or individuals who passed the Legal State Exam have the right to appear. In administrative cases, the General Administrative Procedure Act gives the right to appear in front of state authorities to everyone who is capable to contract.

Notaries: They are private professionals under the authority of public authorities (Ministry of Justice, Chamber of Notaries, president of the higher court within whose jurisdiction the notarial post is based). The functions of notaries as persons in positions of public trust shall be according to the provisions of the notarial law to draw up public documents of legal deeds expressed statements or legal facts from which legal rights are derived; to store documents and to receive money and securities for delivery to third persons or to state authorities; under court order to conduct any matter which they may be delegated. According to the law, certain legal affairs within the framework of civil procedure are valid only if concluded in the form of a notarised deed - agreements regulating matrimonial financial relations, agreements on the disposal of the property of the persons deprived of contractual capacity, agreements on the delivery and distribution of property during one's lifetime, contracts of annuity for life, contracts of donation for the case of death and promises to make gifts, purchase contracts including reservation of title, agreements on the renunciation of inheritance.

Bailiffs acting as enforcement agents: The bailiffs practicing as private professionals under the authority of

²³³ 2936 in first instance courts; 214 in second instance courts; 124 in highest instance courts.

²³⁴ 12 at first instance, 6 at the second instance.

²³⁵ 278 at first instance; 82 at second instance; 38 at the highest instance.

²³⁶ 2646 at first instance; 126 at second instance; 86 at the highest instance.

public authorities.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases in 2010/Professional Judges sitting in courts full time	Incoming first instance non criminal cases in 2010/Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases in 2010/ (judges and administrative personnel)
657	137	87

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management in more than 50% of courts, while there are electronic tools for tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Slovenia 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, Electronic data-base of case-law, E-mail, Internet connection, are available in 100% of courts, while Electronic files are available in more than 50% of courts. As to the electronic communication between courts and their environment, the possibility to access to court electronic registers, use a service for the electronic processing of small claims, is available in 100% of courts; the possibility to use a service for the electronic processing of undisputed debt recovery, e-filing, is available in more than 50% of courts; follow-up a case online, is available in less than 50% of courts.

The Slovenian "Legal Enforcement Procedure for Money Claims" project (so-called CoVL; in 2012, the project was incorporated into the "e-Sodstvo" (e-Judiciary) Portal) provides an interesting example for the court information systems development. Legal enforcement procedure in Slovenia is one of main contributors to the number of judicial cases in Slovenia due to the large number of yearly filed enforcement proposals. Judicial backlogs related to numerous requests for enforcement on the basis of authentic documents (e.g., bills, cheques, financial statements, etc.) represented almost half of the entire backlog, or 75% of all enforcement-

related backlog, in 2006. To confront this problem, a new department was set up in the Local court of Ljubljana to relieve other Slovenian courts, and to centralize and move the procedure from paper to electronic.

The new procedure allows e-filing, along with conversion of paper documents to the electronic form, automatic checking and processing of enforcement proposals, IT supported decision-making, and central printing, enveloping and dispatching services. As a consequence of the new system, the work, previously done by around 350 court employees and judges at 44 courts, now involves just 4 judges and 62 support personnel. The introduction of an automated postal system alone, which has processed more than 1 million postal parcels in 2009, reduced the number of necessary staff by 60-70 over a year. Furthermore, the introduction of CoVL, at the start of 2008, lowered the number of pending cases by 6.6% in 2008 (to 284 302) and by 5.94% in 2009 (to 267 410). Decision making time has been lowered from an average of 6 months to less than 5 working days for over 90% of the requests.

A system for the electronic payment of fees (e-Plačila) has been introduced after 2010. The system is part of the common service of public administration, run by the Ministry for Justice and Public Administration. Furthermore, since 2011 there are two procedures that allow electronic means of communication (and e-filing) with lawyers and parties – eINS – (insolvency proceedings) and eZK (land register), but it can be and it will be expanded to other procedures as well. Using eINS and eZK, the whole procedure is electronical. However, if there is an appeal, the procedure becomes an ordinary paper based civil law / commercial law procedure.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):²³⁷

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
Slovenia	4.0	3.7	3.3	3.6
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

²³⁷ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Slovenia	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	276	531	226	440
	DT 2008	244	460	209	317
	DT 2010	180	431	218	205
Second instance	DT 2006	147	150	NA	554
	DT 2008	91	97	NA	146
	DT 2010	99	114	NA	46
Highest instance	DT 2006	392	536	NA	35
	DT 2008	446	514	NA	368
	DT 2010	298	383	NA	138

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Data on the number of hearings is provided in the annex.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Slovenia	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	100%	98%	97%	123%
	Second	96%	94%	NA	111%
	Highest	133%	118%	NA	165%

Slovenia	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	332099	43437	18238	2300
	Second	6051	3640	NA	52
	Highest	3107	2116	NA	378

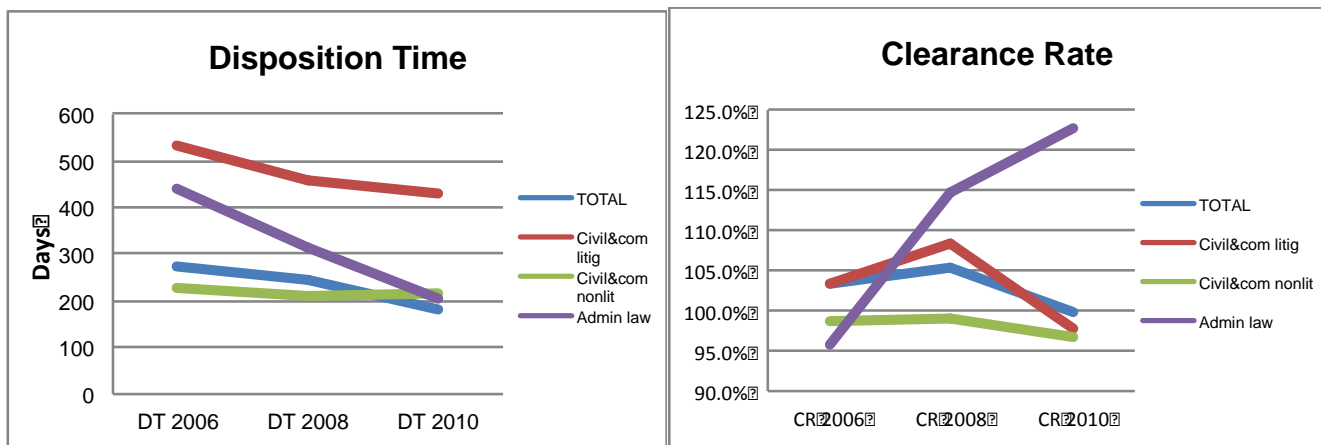
A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

In the 2006-2010 period, the **total** number of other than criminal incoming cases rises by an average of 4.0% per year, from 575,494 in 2006 to 581,904 in 2008 to 673,141 in 2010, while the number of resolved cases rises by an average of 3.1% per year, from 594,693 in 2006 to 613,598 in 2008 to 67,2061 in 2010. In the same period, Disposition Time for other than criminal cases shows a positive trend, decreasing by an average of -10.1% per year, from 276 days in 2006 to 244 days in 2008 to 180 days in 2010.

As **litigious civil and commercial** cases are concerned, the number of incoming rises by an average of 2.1% per year between 2006 and 2010, initially down from 34,683 in 2006 to 31,221 in 2008 but then up to 37,652 in 2010, while the number of resolved cases rises by an average of 0.6% per year, also going initially down from 35,880 in 2006 to 33,788 in 2008 and then rising to 36,820 in 2010. Disposition Time shows a positive trend, decreasing by an average of 5.1% per year, from 531 days in 2006 to 460 days in 2008 to 431 days in 2010.

The number of incoming **non-litigious civil and commercial** cases rises by an average of 1.3% per year, going initially up from 29,893 in 2006 to 32,004 in 2008 and then slightly down to 31,529 in 2010. The number of resolved cases rises by an average of 0.9% per year, from 29,481 in 2006 to 31,697 in 2008, bit then down to 30,502 in 2010. Disposition Time in non-litigious civil and commercial cases shows a stable situation, decreasing by an average of 0.9% per year, going initially down from 226 days in 2006 to 209 days in 2008, and then up to 218 days in 2010.

The number of incoming **administrative** cases decreases by an average of -8.1% per year between 2006 and 2010, from 4,678 in 2006 to 4,299 in 2008 to 3,339 in 2010, while the number of resolved cases decreases by an average of -2.2% per year, initially rising from 4,481 in 2006 to 4,931 in 2008 but then falling to 4,096 in 2010. Disposition Time in administrative cases shows a positive trend, decreasing by an average of -17.4% per year, from 440 days in 2006 to 317 days in 2008 to 205 days in 2010.



Compared to first instance Disposition Time values for the same years,²³⁸ Disposition Time of second instance courts in 2006, 2008 and 2010 for the total number of other than criminal cases values (147, 91 and 99 days

²³⁸ Comparison with first instance DT has been done according to the following formulas:
For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\left(\frac{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\left(\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010} \right)} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

respectively) and civil and commercial litigious cases (150, 97 and 114 days respectively), and in 2010 administrative cases (46 days), are low. Also Disposition Time value of highest instance courts in 2006 administrative cases (35 days) is comparatively low, while the 2008 administrative cases value (368 days) is comparatively high. All other available second and highest instance courts Disposition Time values are in line with the first instance Disposition time values for the same year.

Q11: Number, average duration and costs of non-criminal²³⁹ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	11130	11423	10824	11729	396	94.8%	NAP
Small claim (not Payment Order)	NAP	NAP	NAP	NAP	NA	NA	NAP
Payment Order	142	557	619	80	47	111.1%	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	59816	69181	67322	61675	334	97.3%	NA
litigious	42605	37652	36820	43437	431	97.8%	NA
non-litigious	17211	31529	30502	18238	218	96.7%	NA

On ICT to support money claim procedures see CoVL description in the answer to Q8.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Slovenia

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

²³⁹ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	7499	7775	1987	70.39	NA	1437	1161
1. Civil mediation	6631	6849	1642	72.51	NA	1290	1072
2. Family mediation	525	570	219	62.09	NA	100	55
3. Administrative mediation	NAP	NAP	NAP	NAP	NAP	NAP	NAP
4. Employment dismissal mediation	343	356	126	43.03	NA	47	34

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	59816	69181	67322	61675	334	97.3%	NA
litigious	42605	37652	36820	43437	431	97.8%	NA
non-litigious	17211	31529	30502	18238	218	96.7%	NA

In Slovenia, a private mediator or a court annexed mediation worked on civil and commercial cases, family law cases (ex. divorce) and employment cases. A possibility to receive legal aid for mediation procedure does exist for legal consultation, legal representation and other services in ADR proceedings. There are 344 accredited or registered mediators who practice judicial mediation.

Civil and commercial matters: The Act on Alternative Dispute Resolution in Judicial Matters has been adopted in November 2009. According to this Act, all courts of first and second instance have to adopt ADR programmes. The Act refers to county, district and labour courts, as well as to high courts and high labour court. The courts of first instance had to adopt programmes before 15 June 2010; the courts of second instance will adopt them before 15 June 2012. The court may adopt and implement the programme as an activity organised directly in court (court-annexed programme) or on the basis of a contract with a suitable provider of ADR (court-connected programme). The courts' budget shall provide the funds for the programmes that are offered by courts. Mediation in disputes in relations between parents and children and in labour disputes due to termination of an employment contract is free of costs for parties. In other disputes, the first three hours of mediation are free of costs for parties. The only exception is mediation in commercial disputes; parties pay the costs of such mediation. Parties may be referred to mediation in two different ways: on the basis of parties' agreement or on the basis of the information session (in this case they may oppose to referral and in such case, mediation does not start). In case mediation starts, the court proceedings are suspended for 3 months.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure- First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	283081	155995	150456	288580	700	96.4%
2008	304265	182529	204279	281716	503	111.9%

2010	219042	232589	239146	212485	324	102.8%
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Data on first instance courts' enforcement procedure, in the period 2006-2010, show a positive trend, with the Disposition Time decreasing by an average of 17.5% per year, from 700 days in 2006 to 503 days in 2008 to 324 days in 2010.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Slovenia

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Slovenia

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for Slovenia

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	966	990	1 323	726	NA	NA	37
2008	629	885	973	541	203	109.9%	44,75
2010	887	1093	1252	728	212	114.5%	36,34

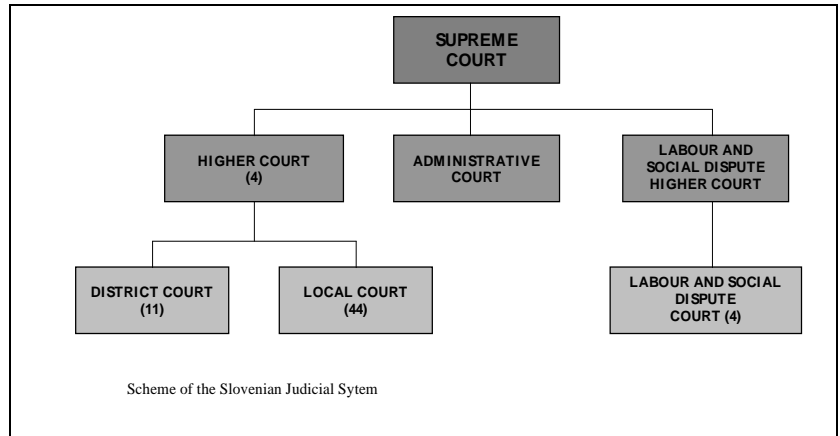
In 2010, the average length of proceedings in employment dismissal cases is of 211,6 days in 1st instance courts, 127 days in 2nd instance courts, and 546,8 days in 3rd instance courts. The % of pending cases for more than 3 years is 3,9%.

In 2010 the number of employment dismissal procedure included 1 disciplinary dismissal, 518 economic dismissal and 573 for other motivations.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

Slovenia is characterized by a unified system of courts, which consists of courts with general and specialised jurisdiction. There are 55 courts of first instance with general competence over civil and criminal cases. This number includes 44 local courts (*okrajna sodišča*) and the 11 district courts (*okrožna sodišča*). Local Courts have jurisdiction over various litigation matters, notably disputes over property rights, where the value of the disputed property does not exceed 20,000 €, as well as disputes relating to trespass and lease and tenancy relations, enforcement and insurance of claims, probate cases and non-contentious matters. District courts have first instance jurisdiction over litigation matters such as property rights where the value of the disputed property exceeds 20,000 €, over forced settlements, over bankruptcy and liquidation, intellectual property rights, over commercial disputes, and family law matters. Appeals go to 4 high courts (*višja sodišča*). The Supreme Court (*Vrhovno sodišče*) generally decides on extraordinary legal remedies and is the court of third instance in some cases.



In addition to these general courts, there are also 4 other courts of first instance (specialised courts) – 3 labour courts (*delovna sodišča*) and 1 labour and social court (*socialno sodišče*). A High labour and social court (*višje delovno in socialno sodišče*) is competent to deal with individual and collective labour and social cases at the second instance.

There is finally an Administrative Court which has a high court status and is competent to deal at first level on appeals against administrative decisions.

The total annual approved budget allocated to all courts is 178,158,919 €. About 71% of such budget is allocated to gross salaries, while 5% is allocated to buildings (about 4% to maintenance and 1% to investments in new structures) and 2% to ICT development and investments.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

Every court has to prepare the yearly report, which includes data on the number of judges, the number of their working days, the number of solved cases, unsolved cases, legal remedies, their outcome, the number of solved cases considered backlogs, time frame of judicial proceedings, etc. Beside that the court has to give explanations for the difference in years and an estimation of the success in meeting the targets set in the yearly plan. Beside that, every court president has to prepare a yearly plan (Courts Act, Article 71.a, b and c) that is sent to the president of the higher court, the Supreme Court and the Minister of Justice. The yearly plan includes estimations of the number of new cases and targets in terms of time frames for typical acts in judicial procedures and the Disposition Time indicator. The yearly plan of results includes estimations of the number of solved cases and criteria regarding efficiency rate, Disposition Time, case per judge, etc. Additionally, the criterion of costs per case is monitored and evaluated. The main performance indicators at court system level are: incoming cases, closed cases, pending cases and backlogs, productivity of judges and court staff. There are performance targets defined at the level of the court. The new Criteria for the assessment of quality of the work of courts have been adopted in 2010 by the Judicial Council and there is a 3-year trial period in which some pilot courts will be monitored regarding the selected criteria (Accessibility of the courts, the judicial procedure – timeliness, the judicial procedure – fair trial, efficiency of the court, quality of the judges, quality of judicial decisions, satisfaction of employees, leadership, relations with stakeholders). Beside court statistics, new satisfaction surveys are planned for 2012, taking into account views of different stakeholders. After the trial period the criteria will be

revised and then adopted on state level. Beside that activities to conduct a pilot project for a quality system within the Slovenian judiciary were started in 2008. In 2009 the pilot project of self-evaluation with the CAF (Common Assessment Framework) model was launched at three pilot district courts. The CAF model was adapted to the judicial organisation so that in 2011 a new model named Quality of the work of courts has been developed. There are quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge by the Judicial Council (who adopts the measures for quantity and quality of work of judges).

There is a system to monitor backlogs and cases that are not processed within a reasonable time for civil and administrative law cases. Cases that are considered court backlogs are precisely defined by the Court Rules in Article 50 in relation to the time from the matter being filed with the courts, depending on individual types of case. The time frames that define the time limits for backlogs have been changed and different time limits were in force in 2008, 2009 and 2010. In 2010 the time limits for backlogs have shortened again²⁴⁰. However, following an agreement between the Judiciary, the Ministry of Justice and the Judicial Council, the focus moved from the area of backlogs to the criterion of timeframes for judicial decisions.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Slovenia	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

The main modifications that came into force in 2010 with the Amendment of Courts Act included:

1. The extension of competences of the Judicial Council - competence in the appointment of presidents of the courts is transferred from the minister of justice to the Judicial Council;
2. The establishing a specialized department for jurisdiction over criminal offences related to organized and economic crime (operating at 4 different district courts);
3. For the purpose of disburdening the president of the court and setting a more efficient court management a new position of Director of the court is appointed;
4. With the intention of effective and economical administration of courts justice administration for county courts is held by justice administration of district courts;
5. More flexible assigning of county and district judges within the range of the district court by president of the district court.

Otherwise, in 2010 a reform concerning the enforcement of court decisions was introduced which aims to increase the speed of enforcement on the basis of executive instruments (judgments, enforceable notarial

²⁴⁰ - Local Courts: Misdemeanour cases, non-contentious cases, civil cases, inheritance cases and enforcement cases: 6 months after case filing; Land register cases: 1 month after case filing
- District Courts: Commercial disputes, civil cases, labour and social security disputes: 6 months after case filing; Court register cases: 1 month after case filing
- High Courts: Civil cases and commercial dispute: 6 months after case filing
- Supreme Court: All cases: 6 months after case filing

deeds, etc) upon assets which a debtor has deposited with organisations for money movements (banks etc). Special enforcement procedure on the basis of bill of exchange was also introduced which pursues the same aim. Steps were also taken to improve collecting information on debtor's property and to expand electronic commerce in enforcement procedures.

In 2011 a reform was introduced aiming at speeding up the procedure of enforcement on the basis of an authentic instrument by tackling the problem of unjustified objections against decree of enforcement which are lodged with the sole purpose of delaying enforcement.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Slovenia is 178,158,919 € (neither public prosecution nor legal aid budget is included). This corresponds to 86.9 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 1.00% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As human resources are concerned, Slovenia has 49.9 full time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 239.2 judges (this number includes full time professional judges, professional judges sitting in courts on an occasional basis, non professional judges, and Rechtspfleger for countries which have such a category). per 100,000 inhabitants. In the Slovenian case this value is calculated including the whole pool of people from which lay judges can be drawn. The value is 71.2 not including them compared to an EU27 average of 45.61 and an EU27 median of 29.8. This is the value that has been used for comparative analyses. Overall, there are 209.6 (377.7 the pool is considered) persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 63.1, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full time professional judges is 1.3, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 first instance incoming other than criminal cases per 100 inhabitants is 32.8, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial at first instance cases per 100 inhabitants is 1.8, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be solved in court in 2010) of the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27

European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Slovenia is 180.4 days, which corresponds to 0.72 times the EU27 average Disposition Time and 1.22 times the EU27 median Disposition Time. The situation is an improvement on the 244.3 days in 2008 and to the 275.9 days in 2006. The Clearance Rate in 2010 is 99.8%, which means that the pending cases are increasing slightly but the situation is stable.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 430.6 days, which corresponds to 1.51 times the EU27 average Disposition Time and 2.00 times the EU27 median Disposition Time. The situation is an improvement on the 460.3 days in 2008 and to the 531.1 days in 2006. The Clearance Rate in 2010 is 97.8%, which means that the pending cases are increasing slightly but the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as “favourable”. A red case indicates that the country is above the EU27. Finally, a yellow case indicates that the country is in the EU27 mean²⁴¹.

		Slovenia			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property Starting business Licences	a	5	110	2.0	5	31	4.9
		2	6*	0.0	6	14	5.2
		7.0	50*	471	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate²⁴².

		Slovenia			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		2.0	4.0	51.1	1.9	10.5	60.6

²⁴¹ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

²⁴² See the methodological note for more details on this assessment.

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Slovenia	86.9	1.00%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Slovenia is above the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Slovenia	49.9	71.2²⁴³	209.6	63.1	1.3
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges and administrative personnel per 100,000 inhabitants is well above the EU 27 mean, while the number of lawyers per 100,000 inhabitants and the lawyers/professional judges ratio, are in line with the EU27 mean (although on the low end).

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective. In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one

²⁴³ Lay judges are excluded

standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Slovenia	32.8	1.8
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, while the number of other than criminal cases per 100 inhabitants is above the EU27 mean, the number of litigious civil and commercial cases is in line with it.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
Slovenia	275.9	244.3	180.4	99.84%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is adequate, below the EU27 mean and the Clearance Rate is about 100%, which means that the situation is stable and the system is capable of dealing with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Slovenia	531.1	460.3	430.6	97.79%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is still not adequate, being above the EU27 mean, although an improvement compared to the previous years. The Clearance Rate is around 100% which means that the situation is stable.

The efficiency of the system as far as the main categories of cases are concerned is between adequate and not adequate.

Additional strengths: Centralized ICT infrastructure developed for dealing with money claims is performing well. The court system is capable of monitoring its efficiency with a good level of detail

7. RECOMMENDATIONS

Business-friendliness:

The time necessary to register property should be sharply reduced with 30 days as an objective. Moreover, a simplification of the licences system should be envisaged and the time required to obtain all the licences necessary to operate, as well as the cost of such licences should be sharply decreased.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Slovenia the court system efficiency should be further improved in specific areas such as litigious civil and commercial cases.

Additional recommendations:

ICT for management of cases and for communication between courts and their environment should be further developed although recent experiences (i.e. COVL) are very promising.

The ICT infrastructure positive experience could be extended to other civil procedures.

ANNEX: COUNTRY-STATISTICS

First instance

Slovenia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	468,739	53,407	17,852	283,081	103,839	2,345	5,210	3,005
	2008	443,133	45,179	17,837	304,265	65,688	1,976	4,917	3,271
	2010	331019	42605	17211	219042	44160	394	3057	4550
Incoming (number of cases)	2006	575494	34,683	29,893	155,995	227,538	29,018	4,678	93,729
	2008	581904	31,221	32,004	182,529	256,928	35,852	4,299	39,071
	2010	673141	37652	31529	232589	271328	44960	3339	51744
Resolved (number of cases)	2006	594,693	35,880	29,481	150,456	250,493	29,341	4,481	94,561
	2008	613,598	33,788	31,697	204,279	262,154	37,357	4,931	50611
	2010	672061	36820	30502	239146	266091	44795	4096	50611
Pending 31 Dec. (number of cases)	2006	449,540	52,210	18,264	288,580	80,884	2,022	5,407	2,173
	2008	410,639	42,612	18,143	281,716	60,462	471	4,285	2,950
	2010	332099	43437	18238	212485	49397	559	2300	5683

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	103%	103%	99%	96%	110%	101%	96%	101%
CR	2008	105%	108%	99%	112%	102%	104%	115%	130%
CR	2010	100%	98%	97%	103%	98%	100%	123%	98%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	276	531	226	700	118	25	440	8
DT (Days)	2008	244	460	209	503	84	5	317	21
DT (Days)	2010	180	431	218	324	68	5	205	41

Second instance

Slovenia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	12,416	9,626	NA	NA	NA	NA	2,722	68
	2008	7,629	5712	NA	1385	NA	NA	525	7
	2010	5138	2941	NA	2096	NA	NA	94	7
Incoming (number of cases)	2006	27151	19,677	NA	NA	NA	NA	1,830	5,644
	2008	21502	12,036	NA	7,070	NA	NA	610	1,786
	2010	23284	12363	NA	9317	NA	NA	367	1237
Resolved (number of cases)	2006	28,227	20,759	NA	NA	NA	NA	1,807	5,661
	2008	23,322	14,017	NA	6,710	NA	NA	810	1,785
	2010	22371	11664	NA	9061	NA	NA	409	1237
Pending 31 Dec. (number of cases)	2006	11,340	8,544	NA	NA	NA	NA	2,745	51
	2008	5,809	3,731	NA	1,745	NA	NA	325	8
	2010	6051	3640	NA	2352	NA	NA	52	7

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	104%	105%	NA	NA	NA	NA	99%	100%
CR	2008	108%	116%	NA	95%	NA	NA	133%	100%
CR	2010	96%	94%	NA	97%	NA	NA	111%	100%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	147	150	NA	NA	NA	NA	554	3
DT (Days)	2008	91	97	NA	95	NA	NA	146	2
DT (Days)	2010	99	114	NA	95	NA	NA	46	2

Highest instance

Slovenia	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	1,365	1,138	NA	NA	NA	NA	32	195
	2008	4,520	2,057	NA	NA	NA	NA	1,866	597
	2010	4046	2423	NA	NA	NA	NA	773	850
Incoming (number of cases)	2006	2390	1,537	NA	NA	NA	NA	172	681
	2008	3696	1,929	NA	NA	NA	NA	1,012	755
	2010	2862	1710	NA	NA	NA	NA	607	545
Resolved (number of cases)	2006	1,811	1,084	NA	NA	NA	NA	186	541
	2008	3,698	1,655	NA	NA	NA	NA	1,434	609
	2010	3801	2017	NA	NA	NA	NA	1002	782
Pending 31 Dec. (number of cases)	2006	1,944	1,591	NA	NA	NA	NA	18	335
	2008	4,518	2,331	NA	NA	NA	NA	1,444	743
	2010	3107	2116	NA	NA	NA	NA	378	613

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	76%	71%	NA	NA	NA	NA	108%	79%
CR	2008	100%	86%	NA	NA	NA	NA	142%	81%
CR	2010	133%	118%	NA	NA	NA	NA	165%	143%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	392	536	NA	NA	NA	NA	35	226
DT (Days)	2008	446	514	NA	NA	NA	NA	368	445
DT (Days)	2010	298	383	NA	NA	NA	NA	138	286

Average number of hearings

The data on the average number of hearings represents the average number of hearings that courts

	Average number of hearings at first instance	Average number of hearings at second	Average number of hearings at highest instance
Total of civil, commercial and administrative law cases* (litigious and non-litigious)	1,027	0,004	NAP
1 Civil (and commercial) litigious cases*	1,104	0,004	NAP
2 Civil (and commercial) non-litigious cases*	1,213	0	NAP
3 Enforcement cases	NA	0	NAP
4 Land registry cases**	NA	0	NAP
5 Business register cases**	0	NAP	NAP
6 Administrative law cases	0,015	0	NAP
7 Other	0,777	0,008	NAP

had in cases that were resolved in 2010. The number was calculated by dividing the number of all hearings made in cases that were resolved in 2010, by the number of solved cases in 2010.

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

SPAIN

Report
prepared by

Eric Dubois
Christel Schurrer
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experts appointed by the Bureau of the CEPEJ

Report prepared for
the European Commission (Directorate General Justice)

25. SPAIN

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Spain	EU27 Mean	Spain	EU27 Mean
Number of procedures	5	5	0 (0%)	1 (27%)
Time (days)	13	31	0 (0%)	9 (26%)
Cost (% of property value)	7.1	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	80	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Spain	EU27 Mean	Spain	EU27 Mean
Number of procedures	10	6	0 (0%)	1 (16%)
Time (days)	29	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	4.5	5.2	0.0 (0%)	0.8 (24%)
% of procedures possible by Internet	90	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Spain	EU27 Mean
Time (years) ²⁴⁴	1.5	1.9
Cost (% of estate)	11.0	10.5
Recovery rate (%) ²⁴⁵	75.6	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: 909 or 1114 days according to the procedure (expedited / normal)²⁴⁶.

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	4905	4770
Number of firms	3355830	3407143
Ratio	0.1	0.1

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Spain	EU27 Mean
Number	9.2	5.1
Time (days)	59	39
Cost (€)	479	309

The OECD reports an index of 0 which places Spain below the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

²⁴⁴ The Spanish Chamber of Commerce and Industry reported a duration of 23.8 months in the additional questionnaire (2010 data).

²⁴⁵ The Spanish Chamber of Commerce and Industry reported a recovery rate of 54% in the additional questionnaire (2010 data).

²⁴⁶ Source: Spanish Chamber of Commerce and Industry (2010 data).

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary²⁴⁷ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget ²⁴⁸	Budget in €	Budget in €/Population	% of general government expenditure ²⁴⁹
TOTAL annual approved budget allocated to the functioning of all courts	4,202,016,219	91.4	0.88%
Annual public budget allocated to (gross) salaries	1,329,868,250	28.9	0.28%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	158,163,660	3.4	0.03%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	NA	NA	NA
Annual public budget allocated to court buildings (maintenance, operating costs)	NA	NA	NA
Annual public budget allocated to investments in new (court) buildings	NA	NA	NA
Annual public budget allocated to training and education	NA	NA	NA
Other	NA	NA	NA

In Spain, the overall budget of the justice system is 4,632,278,011 euros. This includes the budget for the court system, legal aid, public prosecution services, probation services, Council of the judiciary and functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional Judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	4,689	18,184	125,208	847	2,986	4,456
Number / population *100,000	10.2	39.5	272.3	1.8	6.5	9.7
Number / State + Local annual expenditure in Billions	9.8	37.9	261.0	1.8	6.2	9.3

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

Judges

²⁴⁷ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

²⁴⁸ There are not separate budgets for legal aid and public prosecution services as they are included in the budget allocated to courts and public prosecution both at national level (budget of the Ministry of Justice) and at the level of Autonomous Regions.

²⁴⁹ General government expenditure is based on 2010 Eurostat data.

According to 2010 data, in Spain there are 4,689 professional judges sitting in ordinary and administrative courts, including 3,209 at first instance, 1,401 at second instance and 79 at highest instance²⁵⁰. Furthermore, there are 1,357 professional judges sitting in courts on an occasional basis. In addition to professional judges, in Spain there are 7,682 non-professional judges sitting in courts of first instance.

Non-judge staff

In Spain, there are 4,456 Rechtspfleger (or similar court personnel units) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal. "Secretarios Judiciales" are civil servants who form a hierarchical body of national scope, highly skilled, dependant on the Ministry of Justice and the Government Secretaries of each of the Higher Courts of Justice. In order to guarantee their absolute independence, they are subject to practically the same regime of incompatibilities and prohibition as judges. With reference to their tasks, "Secretarios Judiciales" are public authorities whilst carrying out their duties. Therefore, they must act in subjection to the principles of legality and impartiality. They assist the judges in their functions. They manage the paperwork of court proceeding, keep record of all stages of the proceedings (hearing, trials, etc.) and inform the judge of any documents submitted and the deadlines for the various procedures. Finally, they are the direct head of the staff working in the courts and they have managing responsibilities in the new Judicial Offices.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is not available.

Other actors of the non-criminal justice system

Lawyers: there are 847 EU lawyers, registered under their home country professional title (Art. 2 of Directive 98/5/EC). In civil and administrative cases lawyers have a monopoly on legal representation, although "Graduados sociales" (consultants on labour and social security matters) may represent the parties in labour law proceedings. Otherwise, there are 44,456 legal advisors who cannot represent their client in courts (this refers to the number of non-practising lawyers, those who do not take up the professional practice but have at least 20 years' experience).

Notaries: They are both civil servants and legal professionals. Notaries give public effectiveness to all sorts of extra-judicial transactions or private acts. Consequently, they act in different areas: facts, authenticating factual situations (giving faith officially authenticated records), civil and commercial contracts (giving them executive or declarative effect in proceedings), property, by means of the instrumental "tradition" (legal possession) as the documents a notary authorises can convey property and other real rights if the rest of necessary contractual requisites apply and in the personal sphere, they also intervene in family acts and inheritance law.

Bailiffs acting as **enforcement agents:** there are 4456 "Secretarios Judiciales" acting as enforcement agents

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases in 2010/Professional Judges sitting in courts full time	Incoming first instance non criminal cases in 2010/Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases in 2010/ (judges and administrative personnel)
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²⁵⁰ The figures presented refer to the number of professional judges on active service on 1 January 2011, except for those who were on leave.

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Spain 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection, are available in 100% of courts. As to the electronic communication between courts and their environment, the possibility to access to court electronic registers is available in 100% of courts; e-filing is available in less than 10% of courts; finally, the possibility to follow up on a case online, using a service for the electronic processing of small claims and undisputed debt recovery are not available in the courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):²⁵¹

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	Overall ICT installed base
Spain	4.0	4.0	1.9	3.3
EU27 Average	3.9	3.6	2.4	3.3

²⁵¹ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Spain	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	401	261	133	414
	DT 2008	451	296	138	375
	DT 2010	473	289	133	433
Second instance	DT 2006	239	193	NA	344
	DT 2008	228	184	NA	364
	DT 2010	NA	189	NA	346
Highest instance	DT 2006	496	502	NA	491
	DT 2008	461	429	NA	533
	DT 2010	NA	273	NA	566

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Spain	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	88%	94%	102%	102%
	Second	NA	100%	NA	119%
	Highest	NA	115%	NA	102%

Spain	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
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other cases)					
Pending 31 Dec. (number of cases)	First	3860756	1438719	68019	513236
	Second	NA	75207	NA	35847
	Highest	NA	7748	NA	14070

A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

Overall, in the 2006-2010 period, the **total** number of other than criminal incoming cases rises by an average of 13.6% per year, from 2,024,371 in 2006 to 2,607,873 in 2008 to 3,374,149 in 2010, while the number of resolved cases rises by an average of 12.9% per year, from 1,833,225 in 2006 to 2,105,604 in 2008 to 2,976,712 in 2010. Disposition Time for other than criminal cases shows a stable situation, rising by an average of 4.3% per year, from 401 days in 2006 to 451 days in 2008 to 473 days in 2010.

In the same period, the number of incoming **litigious civil and commercial** cases rises by an average of 13.5% per year, from 1,169,750 in 2006 to 1,620,717 in 2008 to 1,940,277 in 2010, while the number of resolved cases rises by an average of 13.5% per year, from 1,094,505 in 2006 to 1,324,577 in 2008 to 1,816,559 in 2010. Disposition Time shows a somewhat stable situation, rising by an average of 2.6% per year, from 261 days in 2006 to 296 days in 2008 but then decreases slightly to 289 days in 2010.

The number of incoming **non-litigious civil and commercial** cases decreases by an average of 8.6% per year, from 262,932 in 2006 to 219,654 in 2008 to 183,448 in 2010, while the number of resolved cases decreases by an average of 7.3% per year, from 252,735 in 2006 to 223,310 in 2008 to 186,976 in 2010. Disposition Time in non-litigious civil and commercial cases shows a stable situation, from 133 days in 2006 to 138 days in 2008, but then decreasing again to 133 days in 2010.

The number of incoming **administrative** cases rises by an average of 28.4% per year, from 155,403 in 2006 to 179,794 in 2008 to 422,587 in 2010, while the number of resolved cases rises by an average of 39.6% per year, from 113,937 in 2006 to 160,400 in 2008 to 432,394 in 2010. Disposition Time in administrative cases shows a rise by an average of 1.2% per year, from 414 days in 2006 to 375 days in 2008 to 433 days in 2010.

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	575622	900088	854170	621540	266	94.9%	NAP
Small claim (not Payment Order)	NAP	NAP	NAP	NAP	NA	NA	NAP
Payment Order	167119	895127	850330	44797	19	95.0%	NAP

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	1440614	2123725	2003535	1506738	274	94.3%	NA
litigious	1362790	1940277	1816559	1438719	289	93.6%	NA
non-litigious	77824	183448	186976	68019	133	101.9%	NA

Following the reform of the regulation of court fees (article 35 of the Law 53/2002, of 30 December, on Fiscal, Administrative and Social Measures), parties have to pay a fee in order of payment procedures since 2011.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Spain

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	2242	1308	251	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	1440614	2123725	2003535	1506738	274	94.3%	NA

litigious	1362790	1940277	1816559	1438719	289	93.6%	NA
non-litigious	77824	183448	186976	68019	133	101.9%	NA

In Spain, a public authority (other than the court) or a court annexed mediation worked on civil and commercial cases and family law cases (ex. divorce), while administrative cases and employment cases are dealt with only by a court annexed mediation. A possibility to receive legal aid for mediation procedure does exist. There are 2242 family cases in Spain.

A Real decreto-ley (5th March 2012) implemented the Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters in Spain.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	946619	436286	372048	1008871	990	85.3%
2008	1090255	587708	397317	1280327	1176	67.6%
2010	1570042	827837	540783	1840782	1242	65.3%

Data on first instance courts' enforcement procedure, in the period 2006-2010, show a negative trend, with the Disposition Time increasing by an average of 5.8% per year, from 990 days in 2006 to 1176 days in 2008 to 1242 days in 2010.

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Spain

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Spain

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

According to the European Judicial Atlas in Civil Matters, concerning the service of documents under Regulation 1393/2007, the costs are as provided for by the applicable Spanish legislation, which does not currently specify any particular amount.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	14 323	65 162	62 406	13 577	NA	NA	NA
2008	14 373	102 925	82 854	29 450	NA	NA	NA
2010	32206	111942	105293	29197	101	94.1%	NA

In 2010, the average length of proceedings in employment dismissal cases is of 105 days in 1st instance courts, 236 days in 2nd instance courts, and 391days in 3rd instance courts. The average length of the procedure is 732 days. The % of pending cases for more than 3 years is not available.

The Royal Legislative Decree No. 1/1995 (Worker's Statute) regulates three types of dismissal procedure depending on its motivation: proper, improper and invalid dismissal. Data on employment dismissal procedure motivations is not collected.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

Spain's judicial organisation, starting with the right of the judge predetermined by law, is structured in accordance with its territorial organisation. Pursuant to article 26 of Organic Law on the Judiciary, the exercise of jurisdictional authority is attributed to the following judicial organs:

- Sole judge courts: Justices of the Peace, First Instance Courts, Examining Courts, Commercial courts, Violence against Women Courts, Criminal courts, Administrative Courts, Social Courts, Juvenile Courts and Parole Courts.

- Bench judges: Provincial Courts, High Courts, National Court and Supreme Court

Sole judge courts – excepting justices of the peace, located in municipalities – are established at the top of legal districts, while benches of judges operate in the provinces, the Autonomous Regions and at the national level in the case of the Supreme Court and the National Court.

Provincial Courts try civil and criminal cases and are located in the capitals of the provinces.

The Supreme Court, based in Madrid, is the sole judiciary body in Spain with jurisdiction throughout the nation and the highest court in all legal fields, except for issues of constitutional guarantees and rights, the competence for which resides with the Constitutional Court. The Supreme Court has five divisions: civil, criminal, labour and military.

Specifically, the Supreme Court is the pinnacle of the appeals system and therefore ultimately responsible for the uniform interpretation of jurisprudence in Spain. It takes care, inter alia, of judging appeals for reversal, reviews and other extraordinary cases, as well as the prosecution of members of upper institutions of the State and the processes for declaring political parties to be illegal.

High Courts act in each Autonomous Region and have different geographical locations to guarantee access to justice. They have four divisions: civil, criminal, administrative and labour.

The National (Criminal) Court has its seat in Madrid and is a unique legal organ in Spain with jurisdiction over the entire national territory. It constitutes a centralized court, specialised in the knowledge of certain matters attributed by law such as crimes committed against the Royal Family, major drug trafficking, counterfeiting and offences committed outside the Spanish Territory that are prosecuted in Spain. It has four divisions: review, criminal, administrative and labour.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The Inspection Service of the General Council of the Judiciary elaborates monitoring reports on the basis of information provided by the Judicial Statistics Department. Information requested from the courts is essentially quantitative and focused on procedural characteristics. Statistical reports are also used to obtain administrative information. The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), closed cases, pending cases and backlogs and satisfaction users 'regarding the services delivered by the courts). Performance targets are set at the level of the court. The main targets of the courts are the same than the targets set up for the judges. Otherwise, The National Quality Commission has approved a new quality system to be implemented in the new Judicial Offices. It comprises verifiable procedural indicators as well as mechanisms for monitoring the number of cases and timeframes for each indicator. There are quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge by the judicial power. There is no obligation in the Spanish system to provide information to the parties concerning the foreseeable time of proceedings. But the management information system used within the courts allows monitoring waiting time and there is a system to monitor backlogs and cases that are not processed within a reasonable timeframe in civil and administrative cases. Otherwise, a system to evaluate the overall functioning of courts does exist: the Inspection Service of the General Council of the Judiciary organises scheduled visits every six months and makes a report based on statistical data provided by courts.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Spain	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

No data available for Spain

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the calculated total annual approved budget allocated to all courts in Spain (as the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%) is 2,854,164,974 € (neither public prosecution nor legal aid budget is included). This correspond to 62.1 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The calculated total

annual approved budget allocated to all courts is the 0.60% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As human resources are concerned, Spain has 10.2 full time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 39.5 judges (this number includes full time professional judges, professional judges sitting in courts on an occasional basis, non professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. The number of lawyers per 100,000 inhabitants is 272.3, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full time professional judges is 26.7, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 7.3, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 4.2, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be solved in court in 2010) of the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Spain is 473.4 days, which corresponds to 1.90 times the EU27 average Disposition Time and 3.21 times the EU27 median Disposition Time. The situation is worsening compared to the 451.4 days in 2008 and to the 400.6 days in 2006. The Clearance Rate in 2010 is 88.2%, which means that the pending cases are increasing and the number of resolved cases should be increased to stabilize the situation.

As Disposition Time of the litigious civil and commercial cases is concerned, in 2010 it is 289.1 days, which corresponds to 1.02 times the EU27 average Disposition Time and 1.34 times the EU27 median Disposition Time. The situation is an improvement on the 296.2 days in 2008. At the same time, the situation in 2010 is worsening compared to the 260.7 days in 2006. The Clearance Rate in 2010 is 93.6%, which means that the pending cases are increasing and the number of resolved cases should be increased.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can

be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean²⁵⁴.

		Spain			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	5	13	7.1	5	31	4.9
Starting business		10	29*	4.5	6	14	5.2
Licences		9.2	59*	479	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate²⁵⁵.

		Spain			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		1.5	11.0	75.6	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Calculated courts budget in Euro per inhabitant	Calculated courts budget as % of public expenditure
Spain	62.1	0.60%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The calculated budget²⁵⁶ allocated to all courts in Spain is in line with the EU27 mean.

²⁵⁴ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

²⁵⁵ See the methodological note for more details on this assessment.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Spain	10.2	39.5	not available	272.3	26.7
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges per 100,000 inhabitants, and the lawyers/professional judges ratio, are in line with the EU27 mean. The number of non-judge staff is not available and the number of lawyers is higher than the EU27 mean

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Spain	7.3	4.2
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, the number of other than criminal cases and the number of litigious civil and commercial cases per 100 inhabitants are in line with the EU27 mean.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code

²⁵⁶ As the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts' budget which is 72%.

red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Spain	400.6	451.4	473.4	88.22%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is not adequate, being above the EU27 mean and the Clearance Rate is below 90%, which means that the situation is deteriorating and the system is not capable of dealing with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Spain	260.7	296.2	289.1	93.62%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is not adequate, being above the EU27 mean and the Clearance Rate is below 95%, higher than for the total number of other than criminal cases but still too low. The system is not capable of dealing with incoming cases.

The efficiency of the system as far as the main categories of cases are concerned is not adequate.

Additional strengths: Non-litigious cases do not require a hearing or even a trial taking place; they are resolved before the Rechtsplefeger to give them judicial effect. They are mostly agreements settled in court or controversies easily solved by both litigants.

Additional shortcomings: enforcement procedure is performing particularly badly

7. RECOMMENDATIONS

Business-friendliness:

The cost for **registering property should be reduced by 2 points** to reach 5%. Moreover, the procedure for starting a business should be simplified by removing 2 or 3 steps. The time necessary to start a business should be also sharply reduced with 2 weeks as an objective. Finally, the licences system should be simplified and the time required to obtain all the licences necessary to operate as their cost should be sharply reduced.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Spain the court system is not performing adequately; interventions are required to improve efficiency and effectiveness. Actions may also include: monitoring of the number of hearings, monitoring and ensuring the consistency of decisions, and an active case management policy.

Additional recommendations:

The collection of data in all relevant areas that can be compared with other EU countries should be improved.

ICT infrastructure can be extended, especially with the development of tools for the communication between courts and parties. It could be useful to start from the development of ICT systems to support simplified procedures such as payment orders and small claims in order to gain the experience needed to manage more complex e-services. In other EU national contexts (i.e. UK England and Wales, Slovenia etc.), the creation of a single national electronic jurisdiction for the management of such claims has resulted in reduced technological and organisational complexity and a more efficient use of resources.

ANNEX: COUNTRY-STATISTICS

First instance

Spain	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	1,850,672	732,590	86,176	946,619	NA	NA	85,287	NA
	2008	2,139,498	813,109	93,502	1,090,255	NAP	NAP	142,632	NA
	2010	3333617	1362790	77824	1570042	NAP	NAP	322961	NAP
Incoming (number of cases)	2006	2024371	1,169,750	262,932	436,286	NA	NA	155,403	NA
	2008	2607873	1,620,717	219,654	587,708	NAP	NAP	179,794	NA
	2010	3374149	1940277	183448	827837	NAP	NAP	422587	NAP
Resolved (number of cases)	2006	1,833,225	1,094,505	252,735	372,048	NA	NA	113,937	NA
	2008	2,105,604	1,324,577	223,310	397,317	NAP	NAP	160,400	NAP
	2010	2976712	1816559	186976	540783	NAP	NAP	432394	NAP
Pending 31 Dec. (number of cases)	2006	2,012,079	781,754	92,283	1,008,871	NA	NA	129,171	NA
	2008	2,604,034	1,074,748	84,365	1,280,327	NAP	NAP	164,594	NA
	2010	3860756	1438719	68019	1840782	NAP	NAP	513236	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	91%	94%	96%	85%	NA	NA	73%	NA
CR	2008	81%	82%	102%	68%	NA	NA	89%	NA
CR	2010	88%	94%	102%	65%	NA	NA	102%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	401	261	133	990	NA	NA	414	NA
DT (Days)	2008	451	296	138	1176	NA	NA	375	NA
DT (Days)	2010	473	289	133	1242	NA	NA	433	NA

Second instance

Spain	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	124,705	76,534	NA	28,139	NA	NA	20,032	NA
	2008	117,045	80291	NA	9309	NAP	NAP	27,445	NA
	2010	NA	74875	NA	7429	NAP	NAP	42429	NAP
Incoming (number of cases)	2006	194721	150,888	NA	16,778	NA	NA	27,055	NA
	2008	193520	143,715	NA	7,291	NAP	NAP	42,514	NA
	2010	NA	144554	NA	4983	NAP	NAP	31955	NAP
Resolved (number of cases)	2006	197,746	148,958	NA	25,011	NA	NA	23,777	NA
	2008	191,064	148,729	NA	7,409	NAP	NAP	34,926	NA
	2010	NA	144861	NA	5271	NAP	NAP	37870	NAP
Pending 31 Dec. (number of cases)	2006	129,573	78,947	NA	28,210	NA	NA	22,416	NA
	2008	119,391	74,805	NA	9,727	NAP	NAP	34,859	NA
	2010	NA	75207	NA	7321	NAP	NAP	35847	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	102%	99%	NA	149%	NA	NA	88%	NA
CR	2008	99%	103%	NA	102%	NA	NA	82%	NA
CR	2010	NA	100%	NA	106%	NA	NA	119%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	239	193	NA	412	NA	NA	344	NA
DT (Days)	2008	228	184	NA	479	NA	NA	364	NA
DT (Days)	2010	NA	189	NA	507	NA	NA	346	NA

Highest instance

Spain	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	40,995	19,591	NA	13	NA	NA	21,391	NA
	2008	41,979	27,251	NA	9	NAP	NAP	14,719	NA
	2010	NA	9062	NA	8	NAP	NAP	13260	NAP
Incoming (number of cases)	2006	17717	9,637	NA	18	NA	NA	8,062	NA
	2008	24620	16,643	NA	4	NAP	NAP	7,973	NA
	2010	NA	9048	NA	7	NAP	NAP	8924	NAP
Resolved (number of cases)	2006	25,179	12,310	NA	19	NA	NA	12,850	NA
	2008	30,357	21,157	NA	9	NAP	NAP	9,191	NA
	2010	NA	10362	NA	6	NAP	NAP	9079	NAP
Pending 31 Dec. (number of cases)	2006	34,225	16,918	NA	12	NA	NA	17,279	NA
	2008	38,319	24,889	NA	4	NAP	NAP	13,426	NA
	2010	NA	7748	NA	7	NAP	NAP	14070	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	142%	128%	NA	106%	NA	NA	159%	NA
CR	2008	123%	127%	NA	225%	NA	NA	115%	NA
CR	2010	NA	115%	NA	86%	NA	NA	102%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	496	502	NA	231	NA	NA	491	NA
DT (Days)	2008	461	429	NA	162	NA	NA	533	NA
DT (Days)	2010	NA	273	NA	426	NA	NA	566	NA

Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

SWEDEN

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

26. SWEDEN

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	Sweden	EU27 Mean	Sweden	EU27 Mean
Number of procedures	1	5	0 (0%)	1 (27%)
Time (days)	7	31	0 (0%)	9 (26%)
Cost (% of property value)	4.3	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	0	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	Sweden	EU27 Mean	Sweden	EU27 Mean
Number of procedures	3	6	0 (0%)	1 (16%)
Time (days)	15	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	0.6	5.2	0.0 (0%)	0.8 (24%)
% of procedures possible by Internet	100	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	Sweden	EU27 Mean
Time (years)	2.0	1.9
Cost (% of estate)	9.0	10.5
Recovery rate (%)	75.8	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	7274	7510
Number of firms	965987	1043056
Ratio	0.8	0.7

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	Sweden	EU27 Mean
Number	4.4	5.1
Time (days)	34	39
Cost (€)	346	309

The OECD reports an index of 2 which places Sweden in the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary²⁵⁷ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ²⁵⁸
TOTAL annual approved budget allocated to the functioning of all courts	557,260,358	59.2	0.30%
Annual public budget allocated to (gross) salaries	394,206,713	41.9	0.22%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	13,108,158	1.4	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	NA	NA	NA
Annual public budget allocated to court buildings (maintenance, operating costs)	78,077,930	8.3	0.04%
Annual public budget allocated to investments in new (court) buildings	NA	NA	NA
Annual public budget allocated to training and education	6,873,752	0.7	0.00%
Other	70,688,129	7.5	0.04%

The overall budget of the justice system is 4,064,159,050 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, judicial protection of juveniles and other budgets (the Swedish Police, The Swedish Security Service, the Swedish Economic Crime Authority, the Swedish National Council for Crime Prevention, the National Board of Forensic Medicine, the Swedish Gene Technology Advisory Board, the Crime Victim Compensation and Support Authority, the Swedish Commission on Security and Integrity Protection, Economic compensation for damages suffered due to crime, Economic costs for certain claim settlements, Economic contributions to local crime prevention).

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

Professional Judges sitting in courts full time	Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
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²⁵⁷ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

²⁵⁸ General government expenditure is based on 2010 Eurostat data.

Number	1,081	9,292	5,000	14	127	2,089
Number / population *100,000	11.5	98.7	53.1	0.1	1.3	22.2
Number / State + Local annual expenditure in Billions	5.9	50.7	27.3	0.1	0.7	11.4

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

Judges

There are 1,081 professional judges sitting in ordinary and administrative courts, including 734 at first instance, 308 at second instance and 39 at highest instance. Furthermore, there are 211 professional judges sitting in courts on an occasional basis (46 in full time equivalent). In addition to professional judges, in Sweden there are 8,000 non-professional judges performing various judicial functions.

Non-judge staff

Of the 3,979 non-judge staff units of personnel who are working in ordinary and administrative courts, for 2,800 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 1,179 units of personnel are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management). In Sweden, there is no Rechtspfleger or a similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

Considering just the non-judge staff whose task is to assist the judges such as registrars and the staff in charge of different administrative tasks and of the management of the courts, the ratio of professional judges sitting in courts to non-judge staff who are working in court is 1 to 3.7.

Other actors of the non-criminal justice system

Lawyers: there are 14 EU lawyers, established on the basis of Lawyers Directive 98/5 (13 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC) and 1 EU lawyers who have gained admission to the host member State under Art. 10 of Directive 98/5/EC). In civil and administrative cases, there is no monopoly of representation. Members of family, trade unions, NGOs and others are examples of organisations or persons who may represent a client before a court in civil cases and administrative cases.

Notaries: they are private professionals (without control from public authorities). The services they provide include the certification of authenticity of legal deeds and certificates and other duties (being present as a witness when storage rooms are opened or closed or when seals are applied or broken, supervising draws and confirming that someone is authorised to do certain things or that someone has the expertise or the official position to represent someone else).

Bailiffs acting as **enforcement agents:** they are bailiffs working in a public institution. Explanations to the decrease in the number of enforcement agents are found in a combination of less financial contribution from the State and at the same time the higher efficiency in the activities due to better working methods through developed IT-support.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases/Professional Judges sitting in courts full time	Incoming first instance non criminal cases/Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger	Incoming first instance non criminal cases/ (judges and administrative
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	for countries which have such category	personnel ²⁵⁹⁾
182	21	15

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, Sweden 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, e-mail, Internet connection are available in 100% of courts, while electronic files are not available in the courts. As to the electronic communication between the courts and their institutional environment, the possibility of access to court electronic registers is available in more than 50% of courts, while the possibility to follow up on a case online, using a service for the electronic processing of small claims and undisputed debt recovery, e-filing are not available in the courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum).²⁶⁰

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

ICT

²⁵⁹ Considering just the non-judge staff whose task is to assist the judges such as registrars and the Staff in charge of different administrative tasks and of the management of the courts.

²⁶⁰ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Country	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	Overall ICT installed base
Sweden	4.0	4.0	1.4	3.1
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

Sweden	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	200	206	195	157
	DT 2008	140	197	153	106
	DT 2010	185	187	144	190
Second instance	DT 2006	NA	NA	NA	NA
	DT 2008	134	183	NA	164
	DT 2010	106	111	NA	134
Highest instance	DT 2006	299	126	NA	414
	DT 2008	154	143	NA	175
	DT 2010	101	166	NA	107

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Data on the number of hearings is provided in the annex.

Q10: Clearance Rate and number of pending cases by sector of judiciary

Sweden	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	93%	98%	101%	88%
	Second	106%	100%	NA	111%
	Highest	106%	106%	NA	108%

Sweden	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	92822	31872	8972	49538
	Second	11099	901	NAP	8587
	Highest	3485	149	NAP	2432

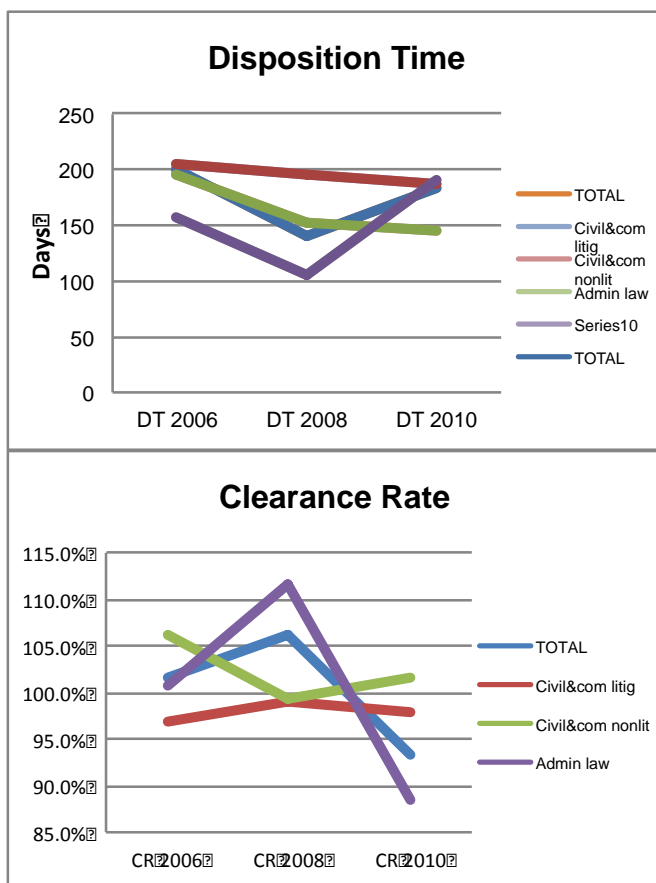
A more detailed analysis of the efficiency of first instance courts in other than criminal matters between 2006 and 2010 (data for efficiency of first, second and highest instance courts are available in the annexed tables):

In the 2006-2010 period, the **total** number of other than criminal incoming cases rises by an average of 32.2% per year, from 64,264 in 2006 to 172,206 in 2008 to 196,544 in 2010, while the number of resolved cases rises by an average of 29.5% per year, from 65,212 in 2006 to 182,808 in 2008 to 183,343 in 2010. Disposition Time decrease by an average of 2.0% per year between 2006 and 2010, initially falling from 200 days in 2006 to 140 days in 2008 but then rising again to 185 days in 2010.

In the same period, the number of incoming **litigious civil and commercial** cases rises by an average of 18.2% per year, from 32,514 in 2006 to 51,348 in 2008 to 63,428 in 2010, while the number of resolved cases rises by an average of 18.5% per year, from 31,501 in 2006 to 50,845 in 2008 to 62,095 in 2010. Disposition Time shows a stable situation, decreasing by an average of 2.3% per year, from 206 days in 2006 to 197 days in 2008 to 187 days in 2010.

The number of incoming **non-litigious civil and commercial** cases decreases by an average of 8.4% per year, initially going from 31,750 in 2006 to 21,098 in 2008 but then increasing again slightly to 22,373 in 2010. The number of resolved cases decreases by an average of -9.4% per year, from 33,711 in 2006 to 20,940 in 2008 and then also rising again to 22,704 in 2010. Disposition Time in non-litigious civil and commercial cases shows a positive trend, decreasing by an average of 7.3% per year, from 195 days in 2006 to 153 days in 2008 to 144 days in 2010.

The number of incoming **administrative** cases rises by an average of 0.9% per year, going initially down from 103,784 in 2006 to 96,759 in 2008 but then rising to 107,654 in 2010, while the number of resolved cases decreases by an average of 2.3% per year, initially rising from 104,647 in 2006 to 107,939 in 2008 but then decreasing to 95,262 in 2010. Disposition Time in administrative cases rises by an average of 4.8% per year, initially decreasing from 157 days in 2006 to 106 days in 2008 but then consistently increasing up to 190 days in 2010.



Compared to first instance Disposition Time value for the same years,²⁶¹ Disposition Time of second instance courts in 2010 for the total number of other than criminal cases value (106 days) is low. All other available second instance Disposition Time values are in line with the first instance Disposition time values for the same year. At highest instance, the 2010 Disposition Time for the total number of other than criminal cases value (101 days) is comparatively low, while Disposition Time values of administrative cases in 2006 and 2008 (414 and 175 days respectively) are comparatively high. All other available highest instance courts Disposition Time values are in line with the first instance Disposition time values for the same year.

Q11: Number, average duration and costs of non-criminal²⁶² court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

²⁶¹ Comparison with first instance DT has been done according to the following formulas:

For second instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{SecondInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27SecondInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

For highest instances:

$$\frac{\left(\frac{\text{FirstInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27FirstInstanceCaseCategory X, 2010}} \right) - \left(\frac{\text{HighestInstance DT CaseCategory X, Year Y}}{\text{MeanDT EU27HighestInstanceCaseCategory X, 2010}} \right)}{\left(\frac{\text{FirstInstance DT of CaseCategory X, Year Y}}{\text{Mean DT EU27 FirstInstanceCaseCategory X, 2010}} \right)}$$

A value higher of 0.5 shows a Disposition Time which is comparatively lower than the one of first instance for the same year and category of cases, while a value lower than -1 shows a Disposition Time which is comparatively higher than the one of first instance for the same year and category of cases.

²⁶² "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	6049	22229	22110	6066	100	99.5%	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	NA	1217052	1224493	NA	NA	100.6%	NAP

The order for payment procedure is dealt with by the Bailiff's office and if they are appealed to court they are not separated from other small claim cases

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	39842	85801	84799	40844	176	98.8%	NA
litigious	30539	63428	62095	31872	187	97.9%	NA
non-litigious	9303	22373	22704	8972	144	101.5%	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Sweden

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NAP	NAP	NAP	NAP	NAP	NAP	NAP
3. Administrative mediation	NAP	NAP	NAP	NAP	NAP	NAP	NAP
4. Employment dismissal mediation	NAP	NAP	NAP	NAP	NAP	NAP	NAP

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
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Total	39842	85801	84799	40844	176	98.8%	NA
litigious	30539	63428	62095	31872	187	97.9%	NA
non-litigious	9303	22373	22704	8972	144	101.5%	NA

In Sweden, a court annexed mediation, a private mediator or a public authority (other than the court) worked on civil and commercial cases, employment cases and family law cases (ex. divorce). A possibility to receive legal aid for mediation procedure does exist.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NAP	NAP	NAP	NAP	NA	NA
2010	NAP	NAP	NAP	NAP	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Sweden

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Sweden

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

No data available for Sweden (UIHJ data)

According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is free²⁶³.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

²⁶³ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_se_en.jsp?countrySession=12&

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA	NA

The average length of proceedings in employment dismissal cases in 2010 is not available. The % of pending cases for more than 3 years is not available. Employment dismissal cases are handled by the Swedish Labour Court, but the data on employment motivations is not collected.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

There are three kinds of courts in Sweden: the general courts, which comprise district courts, courts of appeal and the Supreme Court; the general administrative courts, that is to say, administrative courts, administrative courts of appeal and the Supreme Administrative Court; and also the special courts, which determine disputes within special areas, for example, the Labour Court and the Market Court.

In Sweden, there are 60 first instance courts of general jurisdiction (48 district courts and 12 general administrative courts) and 12 first instance specialised courts including 1 labour court, 8 rent and tenancies courts and 3 other specialised courts. For the second instance, there are general courts of appeal including 6 courts of appeal and 4 administrative courts of appeal. The Supreme Court and the Supreme Administration Court are the highest instance courts.

GENERAL COURTS

(criminal and civil cases including litigious cases robbery and intentional homicide)

The Supreme Court (1)

Courts of appeal (6)

District courts (48)

- 25 district courts are also land courts.
- Five of them are also environmental courts.
- Seven districts courts are also maritime courts.
- District courts are deals also with some employment dismissal cases.

GENERAL ADMINISTRATIVE COURTS

(Cases relating to public administration)

The Supreme Administrative Court (1)

Administrative courts of appeal (4)

One is also the Migration Court of Appeal

Administrative courts (12)

Three are also migration courts

SPECIAL COURTS

The Labour Court

The Labour Court deals with labour disputes. Labour disputes are all disputes concerning the relationship between employers and employees. The Labour Court is normally the first and only instance in labour disputes. Nevertheless, some labour disputes are first heard in a district court, after which an appeal may be lodged with the Labour Court as the second and final instance.

The Market Court

The Market Court deals with disputes under the Competition Act and the Marketing Practices Act.

The Court of Patent Appeals

The Court of Patent Appeals handles appeals against the decisions of the Swedish Patent and Registration Office, concerning patents, trademarks and designs, etc. When leave to appeal has been granted, appeals against the Court's decisions may be lodged with the Supreme Administrative Court.

THE PUBLIC PROSECUTION SERVICE

The public prosecution service includes the Swedish Prosecution Authority and the Swedish Economic Crimes Bureau. The prosecutor is responsible for leading the preliminary investigation when someone is responsibly suspected of an offence. In less serious crimes, preliminary investigations are entirely conducted by police officers. When a preliminary investigation has been completed, the prosecutor takes decision on whether or not to institute proceedings. Another important aspect of the prosecutor's work is to prepare cases and appear in court.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs (Number of filed and determined cases, backlog and age structure of cases). The main performance indicators at the level of the court system are: length of proceedings (timeframes), closed cases, pending cases and backlogs and productivity of judges and court staff. Performance targets are set at the level of the court, the main targets of the courts are related to the average length of proceedings for different types of cases. There are no specific quality standards for the judicial system as a whole. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time is in place but there is no system to monitor waiting time during court procedures.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
Sweden	Yes	Yes	No	Yes	Yes	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

Concerning the courts :

- New law concerning the declaration of priority cases in courts enters into force on 1 January 2012.
- A new organisation for the general administrative courts in first instance meant that 23 county administrative courts were reduced to 12. The name was also changed from county administrative courts to administrative courts.
- A number of different matters that were previously handled by the courts have been transferred to administrative authorities. The objective has been to refine the work of the courts to focus on adjudication.
- 5 Land and Environment Courts, as well as a Land and Environment Court of Appeal, have been set up in order to facilitate, coordinate and streamline the handling of environment cases, property cases and cases according to the Planning and Building Act. These changes entered into force on 2 May 2011.

On 1 January 2011, the system of appointment of permanent judges was reformed. As a result of the reform, it is now possible to apply for all types of positions as a judge. The independent Judges Proposals Board makes a recommendation to the government.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in Sweden is 557,260,358 € (neither public prosecution nor legal aid budget is included). This corresponds to 59.2 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.30% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, Sweden has 11.5 full time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 98.7 judges (this number includes full time professional judges, professional judges sitting in courts on an occasional basis, non professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. The number of lawyers per 100,000 inhabitants is 53.1, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full time professional judges is 4.6, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 2.1, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 0.7, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

In 2010, the Disposition Time for the total number of other than criminal cases in Sweden is 184.8 days, which corresponds to 0.74 times the EU27 average Disposition Time and 1.25 times the EU27 median Disposition Time. The situation is worsening compared to the 140.0 days in 2008. At the same time, the situation in 2010 is an improvement on the 200.2 days in 2006. The Clearance Rate in 2010 is 93.3%, which means that the pending cases are increasing and the number of resolved cases should be increased.

As Disposition Time for the litigious civil and commercial cases is concerned, in 2010 it is 187.3 days, which corresponds to 0.66 times the EU27 average Disposition Time and 0.87 times the EU27 median Disposition Time. The situation is an improvement on the 196.9 days in 2008 and to the 205.8 days in 2006. The Clearance Rate in 2010 is 97.9%, which means that pending cases are slightly increasing but the situation is stable.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean²⁶⁴.

		Sweden			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	a	1	7	4.3	5	31	4.9
Starting business		3	15*	0.6	6	14	5.2
Licences		4.4	34*	346	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate²⁶⁵.

		Sweden			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		2.0	9.0	75.8	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

²⁶⁴ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

²⁶⁵ See the methodological note for more details on this assessment.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
Sweden	59.2	0.30%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Sweden is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
Sweden	11.5	98.7	not available	53.1	4.6
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of professional full time judges, and lawyers per 100,000 inhabitants, and the lawyers/professional judges ratio, are in line with the EU27 mean. The number of judge-like agents is above the EU27 mean while total non-judge staff working in courts is not available.

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
Sweden	2.1	0.7
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, while the number of other than criminal cases per 100 inhabitants is in line with the EU27 mean, the litigious number of civil and commercial cases is lower.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
Sweden	200.2	140.0	184.8	93.28%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

Disposition Time for other than criminal cases in first instance courts in 2010 is adequate, being below the EU27 mean but the Clearance Rate is below 95% which means system is not dealing fast enough with incoming cases.

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
Sweden	205.8	196.9	187.3	97.90%
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Disposition Time for litigious civil and commercial cases in first instance courts in 2010 is adequate, being below the EU27 mean and the Clearance Rate is around 100% which means that the situation is stable and the system is capable of dealing with incoming cases.

The efficiency of the system as far as the main categories of cases are concerned is adequate.

Additional Shortcomings: quantitative data on enforcement, dismissal procedures and mediation is missing

7. RECOMMENDATIONS

Business-friendliness:

No recommendation.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. In particular, in Sweden, the court system is performing adequately, the situation as regards administrative law cases should be monitored.

Additional recommendations:

Data on enforcement procedures, dismissal procedures and mediation should be collected and shared.

ICT tools for the communication between courts and parties should be explored and further developed. It could be useful to start from the development of ICT systems to support the simplified procedures such as the payment orders and small claims in order to gain the experience needed to manage more complex e-services. In other EU national contexts (i.e. UK England and Wales, Slovenia etc.), the creation of a single national electronic jurisdiction for the management of such claims has resulted in a reduced technological and organisational complexity and a more efficient use of resources.

ANNEX: COUNTRY-STATISTICS

Sweden	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	36,721	16,752	19,969	NA	NA	NA	44,231	NA
	2008	80,845	26,902	8,843	NAP	NAP	NAP	42,282	2,818
	2010	79621	30539	9303	NAP	NAP	NAP	37146	2633
Incoming (number of cases)	2006	64264	32,514	31,750	NA	NA	NA	103,784	NA
	2008	172206	51,348	21,098	NAP	NAP	NAP	96,759	3,001
	2010	196544	63428	22373	NAP	NAP	NAP	107654	3089
Resolved (number of cases)	2006	65,212	31,501	33,711	NA	NA	NA	104,647	NA
	2008	182,808	50,845	20,940	NAP	NAP	NAP	107,939	3282
	2010	183343	62095	22704	NAP	NAP	NAP	95262	3282
Pending 31 Dec. (number of cases)	2006	35,773	17,765	18,008	NA	NA	NA	45,094	NA
	2008	70,136	27,433	8,777	NAP	NAP	NAP	31,200	2,726
	2010	92822	31872	8972	NAP	NAP	NAP	49538	2440

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	101%	97%	106%	NA	NA	NA	101%	NA
CR	2008	106%	99%	99%	NA	NA	NA	112%	109%
CR	2010	93%	98%	101%	NA	NA	NA	88%	106%

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	200	206	195	NA	NA	NA	157	NA
DT (Days)	2008	140	197	153	NA	NA	NA	106	303
DT (Days)	2010	185	187	144	NA	NA	NA	190	271

Second instance

Sweden	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	17,309	1,465	NA	NA	NA	NA	14,277	1,567
	2008	16087	1469	NAP	NAP	NAP	NAP	12,711	245
	2010	13345	900	NAP	NAP	NAP	NAP	10832	1613
Incoming (number of cases)	2006	37870	2,605	NA	NA	NA	NA	24,087	11,178
	2008	40822	2,752	NAP	NAP	NAP	NAP	26,158	597
	2010	35993	2951	NAP	NAP	NAP	NAP	21138	11904
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	41652	2,811	NAP	NAP	NAP	NAP	26,791	553
	2010	38239	2950	NAP	NAP	NAP	NAP	23383	11906
Pending 31 Dec. (number of cases)	2006	16,224	1,471	NA	NA	NA	NA	13,184	1,569
	2008	15257	1,408	NAP	NAP	NAP	NAP	12,068	289
	2010	11099	901	NAP	NAP	NAP	NAP	8587	1611

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	102%	102%	NA	NA	NA	NA	102%	93%
CR	2010	106%	100%	NA	NA	NA	NA	111%	100%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	134	183	NA	NA	NA	NA	164	191
DT (Days)	2010	106	111	NA	NA	NA	NA	134	49

Highest instance

Sweden	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	7,871	223	NA	NA	NA	NA	6,795	853
	2008	7454	200	NAP	NAP	NAP	NAP	6,618	699
	2010	4155	168	NAP	NAP	NAP	NAP	3035	952
Incoming (number of cases)	2006	11796	558	NA	NA	NA	NA	8,071	3,167
	2008	12556	588	NAP	NAP	NAP	NAP	8,684	3,278
	2010	11965	308	NAP	NAP	NAP	NAP	7713	3944
Resolved (number of cases)	2006	10,813	581	NA	NA	NA	NA	6,967	3,265
	2008	14081	566	NAP	NAP	NAP	NAP	10,313	3,161
	2010	12635	327	NAP	NAP	NAP	NAP	8316	3992
Pending 31 Dec. (number of cases)	2006	8,854	200	NA	NA	NA	NA	7,899	755
	2008	5929	222	NAP	NAP	NAP	NAP	4,941	815
	2010	3485	149	NAP	NAP	NAP	NAP	2432	904

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	92%	104%	NA	NA	NA	NA	86%	103%
CR	2008	112%	96%	NA	NA	NA	NA	119%	96%
CR	2010	106%	106%	NA	NA	NA	NA	108%	101%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	299	126	NA	NA	NA	NA	414	84
DT (Days)	2008	154	143	NA	NA	NA	NA	175	94
DT (Days)	2010	101	166	NA	NA	NA	NA	107	83



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

Part 1: Country Fiches

UK

Report
prepared by

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Report prepared for
the European Commission (Directorate General Justice)

27. UK-ENGLAND AND WALES

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	UK-ENG&WAL	EU27 Mean	UK-ENG&WAL	EU27 Mean
Number of procedures	6	5	0 (0%)	1 (27%)
Time (days)	26	31	0 (0%)	9 (26%)
Cost (% of property value)	5.7	4.9	0.0 (0%)	1.1 (21%)
% of procedures possible by Internet	NA	43	0	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	UK-ENG&WAL	EU27 Mean	UK-ENG&WAL	EU27 Mean
Number of procedures	6	6	0 (0%)	1 (16%)
Time (days)	12	14	0 (0%)	2 (17%)
Cost (% of per capita GNI)	0.7	5.2	0.0 (0%)	0.8 (24%)
% of procedures possible by Internet	NA	83	0	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	UK-ENG&WAL	EU27 Mean
Time (years)	1.0	1.9
Cost (% of estate)	6.0	10.5
Recovery rate (%)	88.6	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	NA	NA
Number of firms	NA	NA
Ratio	NA	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	UK-ENG&WAL	EU27 Mean
Number	2.8	5.1
Time (days)	15	39
Cost (€)	276	309

The OECD reports an index of 2 which places UK – England and Wales in the EU27 mean (1.62).

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary²⁶⁶ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ²⁶⁷
TOTAL annual approved budget allocated to the functioning of all courts	1,182,000,000	21.4	0.16%
Annual public budget allocated to (gross) salaries	717,000,000	13.0	0.09%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	30,000,000	0.5	0.004%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	64,000,000	1.2	0.01%
Annual public budget allocated to court buildings (maintenance, operating costs)	238,000,000	4.3	0.03%
Annual public budget allocated to investments in new (court) buildings	1,000,000	0.0	0.0001%
Annual public budget allocated to training and education	1,000,000	0.0	0.00%
Other	131,000,000	2.4	0.02%

The overall budget of the justice system is 10,866,000,000 euros. This includes the budget for the court system, legal aid, public prosecution services, prison system, probation services, and functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	1,984	35,716	165,128	25	845	2,915
Number / population *100,000	3.6	64.7	299.1	0.05	1.5	5.3

²⁶⁶ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

²⁶⁷ General government expenditure is based on 2010 Eurostat data. UK General government expenditure has been multiplied by the % of England and Wales population on the UK total (about 88.7%).

Number / State + Local annual expenditure in Billions	2.6	46.9	217.0	0.03	1.1	3.8
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Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available

Judges

There are 1,984 professional judges sitting in ordinary and administrative courts. Furthermore, there are 7,432 professional judges sitting in courts on an occasional basis (this is the total of fee paid judicial office holders (some of whom will have held more than one fee paid post, and some who will also have had a mix of fee paid and salaried work). In addition to professional judges, in UK-England and Wales on 31 December 2010, there were 26,300 volunteer magistrates performing various judicial functions. Magistrates (also known as justices of the peace) are part-time volunteer judicial office holders who deal with around 95% of all criminal cases, as well as family and civil cases. As part-time office holders, magistrates must sit for a minimum of 13 sitting days per year. Magistrates do not require legal qualifications, but receive training on appointment and are assisted in courts on matters of law by a trained legal advisor (who is either qualified solicitor or barrister).

Non-judge staff

Only data about 2011, because her Majesty's Courts and Tribunals Service (HMCTS) was created on 1 April 2011, unable to provide specific numbers for 2010. On 30 October 2011, the number of staff employed by HMCTS was 19 535,46 full-time equivalent.

In UK-England and Wales, there is no Rechtspfleger or similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

Considering the numbers of staff employed by HMCTS on 30 October 2011, the ratio between professional judges sitting in courts and non-judge staff who are working in court is 1 to 9.8.

Other actors of the non-criminal justice system

Lawyers: there are 25 EU lawyers, established on the basis of Lawyers Directive 98/5 (24 EU lawyers registered under their home country professional title (Art. 2 of Directive 98/5/EC) and 1 EU lawyers who have gained admission to the host member State under Art. 10 of Directive 98/5/EC). In civil and administrative cases, there is no monopoly of representation at the Bar Council – solicitor advocates, legal executives and non-legally qualified people have rights of audience in various circumstances and in respect of all types of cases. The number of lawyers does include legal advisors.

Notaries: they are private professionals (without control from public authorities). Notaries have duties in the framework of civil procedure, in the field of legal advice and to certify the authenticity of legal deeds and certificates.

Bailiffs acting as **enforcement agents**: county court bailiffs are employed by HM Courts & Tribunals Service and are responsible for enforcing court orders for the recovery of monies, possession of property or goods subject to hire purchase agreements. In addition, they can execute arrest warrants for contempt of court and undertake the service of court documents. High Court Enforcement Officers (HCEOs) are appointed by or on behalf of the Lord Chancellor and are responsible for enforcing High Court orders and county court orders that have been transferred to the High Court. Civilian Enforcement Officers (CEOs) are employed in the magistrates' court by HM Courts & Tribunals Service and are responsible for enforcing certain magistrates' court and Crown Court orders. They execute warrants of arrest, committal, detention and distress.

Certified bailiffs hold a certificate granted by an issuing county court, which enables them, and them alone, to levy distress for rent, road traffic debts, council tax and non-domestic rates. They cannot enforce the collection of money due under High Court or county court orders.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available

Incoming first instance non criminal cases/Professional Judges sitting in courts full time	Incoming first instance non criminal cases/Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases/ (judges and administrative personnel ²⁶⁸)
988	55	35

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, UK-England and Wales 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection are available in 100% of courts. As to the electronic communication between courts and their institutional environment, the possibility to use a service for the electronic processing of small claims and e-filing are available in 100% of courts; the possibility to follow up on a case online, access to court electronic registers, using a service for the electronic processing of undisputed debt recovery are not available in the courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):²⁶⁹

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

ICT

²⁶⁸ Considering the numbers of staff employed by HMCTS on 30th October 2011.

²⁶⁹ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

Country	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	Overall ICT installed base
UK-England and Wales	4.0	4.0	2.4	3.5
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

UK-England and Wales	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA
Second instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA
Highest instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

The number of hearings is non available.

Q10: Clearance Rate and number of pending cases by sector of judiciary

UK-England and Wales	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
	First	NA	NA	NA	NA

CR 2010	Second	102%	95%	NA	74%
	Highest	92%	78%	NA	NA

UK-England and Wales	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
	First	NA	NA	NA	NAP
Pending 31 Dec. (number of cases)	Second	NA	NA	NAP	NA
	Highest	NA	NA	NA	NA

Additional data for first, second and highest instance courts efficiency are available in the annexed tables)

Q11: Number, average duration and costs of non-criminal²⁷⁰ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NA	NA	NA	NA	NA	NA	NA
Small claim (not Payment Order)	NA	NA	NA	NA	NA	NA	NA
Payment Order	NA	NA	NA	NA	NA	NA	NA

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	1553450	NA	NA	NA	NA	NA
litigious	NA	290941	NA	NA	NA	NA	NA
non-litigious	NA	1262509	NA	NA	NA	NA	NA

Civil Courts and Administrative Court Cases: the overriding objective of the Civil Procedure Rules (CPR) is to enable the court to deal with cases fairly. This includes ensuring that the parties are on an equal footing; saving expense; dealing with the case in ways which are proportionate to the amount of money involved; to the importance of the case and the complexity of the issues.

The small claims track provides a simple and informal way of resolving disputes. Claimants should be able to do this without a solicitor.

A Small Claims Mediation Service is a free service set up to help court users who currently have an on-going small claims case. However, since mediation is a voluntary process, it should be noted that mediation will only take place if both (all) parties agree. Mediation is less formal than a hearing before a judge. It is confidential, can be quicker, and can reduce the build up of costs, and if you are in an on-going relationship with the other party or parties, a mediation agreement can provide for a more positive relationship in the future. Mediation also gives parties the opportunity to concentrate on the real issues of the case, which may be in addition to, or even different from the legal issues. Parties may come to an agreement, which may include an explanation or an apology, which is something that a court could not order. The Small Claims Mediator is able to settle the majority of disputes over the telephone without the need for either party to attend the court. Alternatively, if you prefer, a face-to-face mediation may be able to be arranged on court premises. If you feel uneasy about meeting or speaking to the other side in the dispute, the mediator can make special arrangements to prevent this happening. In the event if the mediation is unsuccessful, the case may proceed to hearing before the court.

²⁷⁰ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data along these 4 types of litigation.

Money Claims are supported by a centralised ICT system called Money Claim Online (MCOL). MCOL allows county court claims to be issued for fixed sums up to £100,000 by individuals and organisations over the internet. The system was set up in 2001. MCOL enables a claimant to request a claim online, check the status of the claim and, where appropriate, request entry of judgment and enforcement by warrant of execution. Payment of the court fee can only be made using a credit or debit card and such fees are non-refundable. Defendants can also use MCOL to reply to and check the status of their claims online.

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

Data unknown (UIHJ Data)

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NA	NA	NA	NA	NA	NA	NA
1. Civil mediation	NA	NA	NA	NA	NA	NA	NA
2. Family mediation	NA	NA	NA	NA	NA	NA	NA
3. Administrative mediation	NA	NA	NA	NA	NA	NA	NA
4. Employment dismissal mediation	NA	NA	NA	NA	NA	NA	NA

Total: 24,600; civil cases: 10,000; family cases: 14,200; employment dismissal cases 400.

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	1553450	NA	NA	NA	NA	NA
litigious	NA	290941	NA	NA	NA	NA	NA
non-litigious	NA	1262509	NA	NA	NA	NA	NA

In UK-England and Wales, civil and commercial cases are worked on by a private mediator or a court annexed mediation; family law cases (ex. divorce) by a court annexed mediation, a private mediator, a public authority (other than a judge) or a judge; administrative cases only by a private mediator and employment cases by a private mediator or a judge. A possibility to receive legal aid for mediation procedure does exist.

Civil mediation is carried out by independent practitioners. Judges do not mediate in cases that come to the courts. However, it is within their powers to order parties to resolve a dispute through mediation. In addition, in 2007, a Small Claims Mediation Service was introduced into Her Majesty's Courts and Tribunals Service (HMCTS), and since then, that service has grown considerably. In each of the past

two years, the 20-25 court-based mediators have conducted more than 10,000 mediations with a settlement rate of 73%. The service is free to parties with a defended small claim, and the vast majority (>90%) of mediations are conducted by telephone.

Employment: the Employment Tribunals offer a Judicial Mediation scheme for employment cases (including cases related to dismissal), which started as a pilot in 2006, and is now available throughout England and Wales. Over 65% of cases mediated reach a successful settlement on the day of mediation. Most cases that do not succeed on the day of the mediation are settled before the hearing as a result of the impetus created by the Judicial Mediation.

Number of judicial mediation procedures : there is no accurate record of the total number of cases that go to mediation or are settled by mediation, since the vast majority of mediations are conducted by private family or civil and commercial mediators. However, the above approximate figures are :

- In 2010/11 financial year, there were some 14,200 publicly funded family mediation cases;
- In 2010/11, 10,000 small claims mediations were conducted by the Her Majesty's Courts and Tribunals Service Small Claims Mediation Service;
- In 2010/11, approximately 400 judicial mediations were conducted in employment tribunal cases.

Conciliation

Where a problem or disagreement in the workplace is likely to lead to a tribunal claim, the Advisory, Conciliation and Arbitration Service (Acas) will often be able to offer free and impartial pre-claim conciliation (PCC). The aim of this service is to help employers and employees to find a solution that is acceptable to both, and avoid the costs, stress and time associated with an employment tribunal. Acas PCC was expanded in April 2009, and over 80% of the cases in which both employers and employees have agreed to conciliate have been resolved without turning into tribunal claims.

Other alternative dispute resolution

In family cases, collaborative law is an alternative dispute resolution practice which can be privately arranged by parties who wish to resolve a dispute outside of the court. Both parties to a dispute will have their lawyers present through the process to provide legal advice.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	29199	NA	NA	NA	NA
2008	NA	26028	752699	NA	NA	2891.9%
2010	NA	21457	NA	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

UIHJ data: enforcement proceedings in domestic law: the average length of enforcement proceedings in civil and commercial matter is unknown. There is a maximum time to enforce a court decision in this matter: the judgement must be enforced within 12 months or the Writ must be renewed. The enforcement agent in charge of enforcing a court decision can grant the debtor installments for the payment of the debt but only with the consent of the creditor. In this case, there is no time restriction, however once the judgement issued it must be enforced within 12 months during the instalment period, which can be extended into years.

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

UIHJ data: when a decision in civil and commercial matter must be brought into effect, failing voluntary compliance by the debtor, the average percentage of cases paid in full following enforcement is 22,5 % and the percentage of part paid cases where they received £150.00 or more but not paid in full is 20,7 %.

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

UIHJ data: data non-available for UK-England and Wales.
According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is free²⁷¹.

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	44 491	38 376	NA	NA	NA	NA
2008	NAP	NAP	NAP	NAP	NA	NA	NAP
2010	NAP	NAP	NAP	NAP	NA	NA	NAP

Data on employment dismissal procedure motivations is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

England and Wales judiciary are not referred to as first instance or second instance judges.

There are 627 courts of first instance with general jurisdiction:

219 County Courts - The County Court, often referred to as the small claims court, deals with civil matters such as: Claims for debt repayment, including enforcing court orders and return of goods bought on credit, personal injury, breach of contract concerning goods or property, family issues such as relationship breakdown or adoption, housing disputes, including mortgage and council rent arrears and re-possession.

The High Court and Court of Appeal deal with higher level civil disputes.

²⁷¹ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_uk_en.jsp?countrySession=4&

330 Magistrates Courts - Magistrates' courts are a key part of the criminal justice system and 97% of cases are completed there. In addition, magistrates' courts deal with many civil cases e.g. anti-social behaviour, public health and are responsible for the enforcement of fines and community punishments. Where cases require a penalty greater than magistrates' sentencing powers, cases will be sent to the Crown Court.

77 Crown Courts in court centres - the Crown Court deals with more serious criminal cases such as murder, rape or robbery, some of which are on appeal or referred from magistrates' courts. Trials are heard by a judge and a 12 person jury. Members of the public are selected for jury service or may have to go to court as witnesses. Crown Court cases originate from magistrates' courts. The Crown Court also hears appeals against decisions of magistrate's courts.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs (monthly performance report). The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), closed cases and enforcement of penal decisions. There are specific quality standards for the judicial system as a whole. No quantitative performance targets (for instance a number of cases to be addressed in a month) are set for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time and monitor waiting time during court procedures is in place.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
UK-England and Wales	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

The Crown Prosecution Service has recently reorganised its structures to reduce its number of geographical Areas from 42 to 13. This reform is in place to improve the management of resources across the organisation and provide more robust management of key issues such as quality of service.

As part of its Growth Review, the Government recently consulted on a series of measures aimed at improving dispute resolution within the workplace; the consultation included a number of proposed changes to the Employment Tribunal system.

It is currently free to lodge a claim with the Employment Tribunal. However, the Government plans to introduce fees to the Employment Tribunal, and will consult on how a fee charging regime will operate – fee levels, charging points, exemptions/remissions etc – in winter 2011.

Others reforms: legal aid, family law, family mediation for example.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in UK-England and Wales is 1,182,000,000 € (neither public prosecution nor legal aid budget is included). This corresponds to 21.4 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.16% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As human resources are concerned, UK-England and Wales has 3.6 full time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 64.7 judges (this number includes full time professional judges, professional judges sitting in courts on an occasional basis, non professional judges, and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. The number of lawyers per 100,000 inhabitants is 299.1, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full time professional judges is 83.2, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 3.6, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance per 100 inhabitants is 0.5, compared to an EU27 average of 2.6 and an EU27 median of 2.2.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

Data on 2010 Disposition Time for the total number of other than criminal cases are not available.

Data on 2010 Disposition Time for litigious civil and commercial cases are not available.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean²⁷².

UK - England and Wales				EU27		
	Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	6	26	5.7	5	31	4.9
Starting business	6	12*	0.7	6	14	5.2
Licences	2.8	15*	276	5.1	39	309

*Independently from the EU27 mean, comparisons for this indicator should be made with the benchmarks provided by the European Commission (Small Business Act): 3 days for starting a business and 30 days for obtaining all the licences necessary to operate²⁷³.

UK - England and Wales				EU27		
	Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy	1.0	6.0	88.6	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

Courts	budget	in	Courts	budget	as
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²⁷² See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

²⁷³ See the methodological note for more details on this assessment.

	Euro per inhabitant	% of public expenditure
UK-England and Wales	21.4	0.16%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in England and Wales is in line with the EU27 mean considering Euro per inhabitant while it is below the EU27 mean considering the % of public expenditure.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
UK-England and Wales	3.6	64.7	not available	299.1	83.2
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of full time professional judges per 100,000 inhabitants is lower than the EU27 mean while considering all judge-like agents it is in line with it. The number of lawyers per 100,000 inhabitants is higher than the EU27 mean, and the lawyers/professional judges ratio is very high. This though should be looked in light of the specific features of the England and Wales judicial system and of the role of non-professional judges.

The following table provide an indication of the caseload to deal which the resources are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
UK-England and Wales	3.6	0.5
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As court system caseload is concerned, while the number of other than criminal cases per 100 inhabitants is in line with the EU27 mean, the number of litigious civil and commercial cases is quite lower.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

First instance courts	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
UK-England and Wales	NA	NA	NA	NA
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
UK-England and Wales	NA	NA	NA	NA
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

The system efficiency cannot be assessed as for the main cases categories as needed data is not available.

Additional strengths: MCOL (Money Claim Online)

7. RECOMMENDATIONS

Business-friendliness:

No recommendation

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too

high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. Unfortunately, for UK-England and Wales there are not enough data to assess the efficiency of the system

Additional recommendations:

Quantitative data collection on the main categories of cases compatible with EU standards should be collected and shared.

ICT tools for the communication between courts and parties should be explored and further developed building in particular on the Money Claim Online and Possession Claim Online experiences

ANNEX: COUNTRY-STATISTICS

First instance

UK-England and Wales	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NAP	NAP	NAP	NA
	2010	NA	NA	NA	NA	NAP	NAP	NAP	NA
Incoming (number of cases)	2006	2533685	292115	1820176	29199	289,291	NA	NA	392195
	2008	2405070	298,796	1696618	26028	NAP	NAP	NAP	383628
	2010	1960251	290941	1262509	21457	NAP	NAP	NAP	385344
Resolved (number of cases)	2006	64,520	46,198	NA	NA	197,688	NA	NA	308833
	2008	NA	NA	NA	752,699	NAP	NAP	NAP	332589
	2010	NA	NA	NA	NA	NAP	NAP	NAP	332589
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NAP	NAP	NAP	NA
	2010	NA	NA	NA	NA	NAP	NAP	NAP	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	3%	16%	NA	NA	68%	NA	NA	79%
CR	2008	NA	NA	NA	2892%	NA	NA	NA	87%
CR	2010	NA	NA	NA	NA	NA	NA	NA	86%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Second instance

UK-EnglandandWales	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NAP	NAP	NA	NA	NAP	NA
	2010	NA	NA	NAP	NAP	NAP	NA	NA	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	33072	3,294	NAP	NAP	3	17,401	12,316	58
	2010	32432	3353	NAP	NAP	1	16027	13007	44
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	32019	3,094	NAP	NAP	4	19,670	9,208	43
	2010	32933	3181	NAP	NAP	3	20082	9634	33
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NAP	NAP	NA	NA	NAP	NA
	2010	NA	NA	NAP	NAP	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	97%	94%	NA	NA	133%	113%	75%	74%
CR	2010	102%	95%	NA	NA	300%	125%	74%	75%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Highest instance

UK-EnglandandWales	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	51	51	0	NAP	NA	NA	NA	0
	2010	50	50	0	NAP	NA	NA	NA	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	80	64	0	NAP	1	2	13	0
	2010	46	39	0	NAP	2	2	0	3
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	157%	125%	NA	NA	NA	NA	NA	NA
CR	2010	92%	78%	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

28. UK-NORTHERN IRELAND

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	UK-NIR	EU27 Mean	UK-NIR	EU27 Mean
Number of procedures	NA	5	NA (NA)	1 (27%)
Time (days)	NA	31	NA (NA)	9 (26%)
Cost (% of property value)	NA	4.9	NA (NA)	1.1 (21%)
% of procedures possible by Internet	NA	43	NA	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	UK-NIR	EU27 Mean	UK-NIR	EU27 Mean
Number of procedures	NA	6	NA (NA)	1 (16%)
Time (days)	NA	14	NA (NA)	2 (17%)
Cost (% of per capita GNI)	NA	5.2	NA (NA)	0.8 (24%)
% of procedures possible by Internet	NA	83	NA	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	UK-NIR	EU27 Mean
Time (years)	NA	1.9
Cost (% of estate)	NA	10.5
Recovery rate (%)	NA	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	NA	NA
Number of firms	NA	NA
Ratio	NA	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	UK-NIR	EU27 Mean
Number	NA	5.1
Time (days)	NA	39
Cost (€)	NA	309

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary²⁷⁴ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ²⁷⁵
TOTAL annual approved budget allocated to the functioning of all courts	83,154,000	46.2	0.34%
Annual public budget allocated to (gross) salaries	46,800,000	26.0	0.19%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	10,000,000	5.6	0.04%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	2,441,000	1.4	0.01%
Annual public budget allocated to court buildings (maintenance, operating costs)	23,600,000	13.1	0.10%
Annual public budget allocated to investments in new (court) buildings	NA	NA	NA
Annual public budget allocated to training and education	313,000	0.2	0.001%
Other	NA	NA	NA

The overall budget of the justice system is 1,378,080,000 euros. This includes the budget for the court system, legal aid, prison system, probation services, Council of the judiciary, judicial protection of juveniles and functioning of the Ministry of Justice.

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional Judges sitting in courts full time	Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	NA	NA	604	0	NA	16
Number / population *100,000	NA	NA	33.6	0.0	NA	0.9

²⁷⁴ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

²⁷⁵ General government expenditure is based on 2010 Eurostat data. UK General government expenditure has been multiplied by the % of Northern Ireland population on the UK total (about 2.9%).

Number / State + Local annual expenditure in Billions	NA	NA	24.3	0.0	NA	0.6
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Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

The number of professional judges sitting in ordinary and administrative courts as the number of professional judges sitting in courts on an occasional basis and the number of non-professional judges performing various judicial functions are not available for Northern Ireland.

Non-judge staff

The number of non-judge staff units of personnel who are working in ordinary and administrative courts is not available. In Northern Ireland, there is no Rechtspfleger or a similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff who are working in court is not available.

Other actors of the non-criminal justice system

Lawyers: there are no EU lawyers, established on the basis of the Lawyers Directive 98/5. In civil and administrative cases, they have no monopoly on legal representation. The organisations or persons that may represent a client before a court are: NGO, personal litigants, solicitors, solicitors advocates.

Notaries: the services they provide include the certification of authenticity of legal deeds and certificates.

Bailiffs acting as **enforcement agents:** the bailiffs are judges or bailiffs working in a public institution. In the Enforcement of Judgments Office (EJO), Enforcement Agents include the Master (Enforcement of Judgments Office), the Chief Enforcement Officer and Enforcement Officers. The Master is appointed under Section 70 of the Judicature (NI) Act 1978. His role is to exercise the judicial functions and discretion in determining contested cases, ensure that all legislative requirements are followed and make orders of enforcement (by application of the Chief Enforcement Officer). The Chief Enforcement Officer, designated by the Lord Chancellor, has the powers to issue summons to compel debtors to a means examination, issue specific enforcement orders and make certain applications for enforcement to the EJO Master. An Enforcement Officer is designated by the Lord Chancellor and is responsible for the completion of means reports, the service of certain enforcement orders and the execution of Orders for Delivery of Possession of Land and Orders for the Delivery of Possession of Goods and Orders of Seizure.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available.

Incoming first instance non criminal cases/Professional Judges sitting in courts full time	Incoming first instance non criminal cases/Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non criminal cases/ (judges and administrative personnel)
NA	NA	NA

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided

are indicator of the caseload in other than criminal matters and not the actual caseload. Also, only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, UK-Northern Ireland 2010 data shows that computer facilities to support judges' and court registrars' activities such as Word processing, electronic data-base of case-law, electronic files, e-mail, Internet connection are available in 100% of courts. As to the electronic communication between the courts and their institutional environment, the possibility to follow up on a case online and access to court electronic registers are available in 100% of courts; the possibility to use a service for the electronic processing of small claims and undisputed debt recovery, and e-filing are not available in the courts.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):²⁷⁶

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
UK-Northern Ireland	4.0	4.0	1.8	3.3
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

²⁷⁶ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

UK-Northern Ireland	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA
Second instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA
Highest instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA

Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

For an analysis of the most relevant first instance courts Disposition Time trends, also in relation to Clearance Rate, see the reply to Q10.

Q10: Clearance Rate and number of pending cases by sector of judiciary

UK-Northern Ireland	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	NA	NA	NA	NA
	Second	NA	NA	NA	NA
	Highest	NA	NA	NA	NA

UK-Northern Ireland	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	NA	NA	NA	NA
	Second	NA	NA	NA	NA
	Highest	NA	NA	NA	NA

Q11: Number, average duration and costs of non-criminal²⁷⁷ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Small claim (not Payment Order)	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Payment Order	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	NA	NA	NA	NA	NA	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

No data available for Northern Ireland.

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
1. Civil mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
2. Family mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
3. Administrative mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
4. Employment dismissal mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ

²⁷⁷ "Non-criminal court case" shall include for the purpose of this scoreboard, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	NA	NA	NA	NA	NA	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

In Northern Ireland, a court annexed mediation or a private mediator worked on civil and commercial cases and family law cases (ex. divorce). Administrative cases can only be dealt with by a private mediator. A possibility to receive legal aid for mediation procedure does exist. The number of accredited or registered mediators who practice judicial mediation procedures is not available.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

No data available for Northern Ireland

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

No data available for Northern Ireland

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is subject to a fee of £45 although there is no fee payable for service on a limited company. To clarify this, documents to be served on individuals are served personally but service on limited companies is effected by post²⁷⁸.

²⁷⁸ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_uk_en.jsp?countrySession=4&

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA	NA
2010	NA	NA	NA	NA	NA	NA	NA

The average length of the employment dismissal procedure in 2010 is not available. The % of pending cases for more than 3 years is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Northern Ireland, there are 27 of first instance courts with general jurisdiction. Civil disputes in Northern Ireland are dealt with and determined by the Court of Judicature, the County Courts, the Magistrates' Courts and various Tribunals.

- The Court of Judicature consists of the Court of Appeal and the High Court of Justice both of which are situated in the Royal Courts of Justice in central Belfast.

The Court of Appeal normally sits at the Royal Courts of Justice in Belfast. The judges of the court of Appeal are the Lord Chief Justice (who is the President) and three Lord Justices of Appeal. The Court of Appeal hears appeals in civil matters from the High Court. It also hears appeals on points of law from the county courts, magistrates' courts and certain tribunals. A Court of Appeal case will usually be heard by three judges but can be heard by two. Incidental matters may be heard by one Court of Appeal Judge. Appeals from the decisions of the Court of Appeal in most civil cases lie to the Supreme Court of the United Kingdom.

The High Court also sits in the Royal Courts of Justice in Belfast. It consists of the Lord Chief Justice and nine high Court Judges. The High Court hears high value and complex civil cases. It comprises three divisions:

- Queen's Bench Division: this division deals principally with actions in contract and tort (primarily personal injury actions) in which the amount in issue is £15,000 or more, defamation, public law cases (mainly applications for judicial review) and a variety of other cases for which special provision has been made by statute. It is to this Division that most appeals from the County Courts are taken.
- Chancery Division: this division deals mainly with land and property matters, cases arising from the declaration or execution of trusts, bankruptcy and winding-up proceedings and the dissolution of partnerships.
- Family Division: this division deals with matrimonial cases such as divorce and matters relating to the dissolution of a marriage or civil partnership (especially the custody of children and the allocation of financial resources), the adoption of children, the guardianship and wardship of children and the affairs of mental patients and probate matters.

In addition to the Lord Chief Justice, cases may be heard by any of the three Lord Justices of Appeal or by a High Court Judge. Although cases are normally dealt with by a single judge, there is a right to trial by judge and jury in libel, slander, malicious prosecution and false imprisonment cases. The work of the Court is supported by Masters of the Court of Judicature.

- The County Courts

In Northern Ireland, there are seven County Court Divisions. Civil cases are commenced in the county court where the value of the case is less than £15,000 (or less than £45,000 in equity matters). Contested cases involving £5,000 or more are normally heard by a county Court Judge (or Deputy County Court Judge). Many cases in which the sum involved does not exceed £3,000 will be dealt with by a District Judge in the small claims court. Cases dealt with using the small claims procedure are usually simple low value consumer disputes. Parties are encouraged to represent themselves rather than engaging solicitors and legal aid is not available for representation in small claims cases.

County Courts can deal with a wide range of cases, but the most common are: personal injury claims (injuries caused by negligence), for example, traffic accidents, falling into holes in the pavement, accidents at work; landlord and tenant disputes, for example, possession (eviction), rent arrears, repairs; consumer disputes, for example faulty goods or services; race and discrimination cases; debt problems, for example, a creditor seeking payment; employment problems, for example, wages or salary owing or pay in lieu of notice; appeals from the magistrates' courts which are dealt with by a judge (and at least two lay magistrates if the defendant is a young person)

The County Courts also have jurisdiction to hear applications for adoption and undefended divorces. Applications for the grant of intoxicating liquor licenses and certificates of registration for clubs are also made to the County Courts. In addition to its original civil jurisdiction, the county court hears appeals under a number of statutory provisions from the magistrates' courts or from other tribunals.

There are four County Courts which have been designated as Family Care Centres to deal with certain applications or appeals relating to the care or welfare of a child or young person. They also hear appeals from the Family Proceedings court

The Magistrates' Courts: while primarily concerned with criminal cases, the Magistrates' Courts also deal with matters such as family and domestic cases, applications for particular licences and certain kinds of debt cases and various 'ejectment' cases involving disputes between a landlord and tenant. Large numbers of these debt and ejectment cases come before these courts every year. The seven County Court Divisions in Northern Ireland are in turn divided into 21 petty sessions districts for the organisation of the Magistrates' Courts. Cases in the Magistrates' Courts are heard by a District Judge (Magistrate's Courts) or a Deputy District Judge (Magistrate's Courts).

Tribunals: many other types of 'civil' disputes are dealt with by 'tribunals' which are separate from the courts described above. Tribunals provide an alternative to the courts for resolving disputes. The role of a tribunal is typically to determine an appeal against a decision of a government department or agency in respect of a person's entitlement. This includes entitlement to social security benefits, children's special educational needs and disability, rates determination. They are also used to resolve party to party disputes, such as employment issues arising between individuals and businesses.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs, the Northern Ireland Courts and Tribunal Service has a number of strategic and corporate objectives which are report on, on a quarterly basis. The main performance indicators at the level of the court system are: incoming cases, length of proceedings (timeframes), closed cases and satisfaction of users (regarding the services delivered by the courts). Performance targets are set at the level of the court. Case listing targets and case disposal targets apply in all court tiers along with various other targets in relation to responding to correspondence, and issued administrative judgements etc. There are specific quality standards for the judicial system as a whole: Customer Service Excellence Standards apply to interaction with customers and how they are informed of services. There is also an National Vocational Qualification in place for Court Clerks which includes customer service modules. There are no quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time is in place but there is no system to monitor waiting time during court procedures. Concerning the evaluation of the overall functioning of courts on the basis of an evaluation plan agreed beforehand, there are quarterly performance reports, annual customer service surveys and periodic Courts Inspectorate assessments.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			

UK-Northern Ireland	Yes	Yes	Yes	Yes	Yes	1.0	0.85	0.8
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The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

No data available for other than criminal matters.

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in UK-Northern Ireland is 83,154,000 € (neither public prosecution nor legal aid budget are included). This corresponds to 46.2 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.34% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, there is no data available on judges. The number of lawyers per 100,000 inhabitants is 33.6, compared to an EU27 average of 160.7 and an EU27 median of 104.6.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is not available, and also the number of incoming litigious civil and commercial cases at first instance is not available

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

Data on 2010 Disposition Time for the total number of other than criminal cases is not available.

Data on 2010 Disposition Time for litigious civil and commercial cases is not available.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27 mean. Finally, a yellow case indicates that the country is in the EU27 mean²⁷⁹.

		UK - Northern Ireland			EU27		
		Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property Starting business Licences	a	NA	NA	NA	5	31	4.9
		NA	NA	NA	6	14	5.2
		NA	NA	NA	5.1	39	309

		UK - Northern Ireland			EU27		
		Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy		NA	NA	NA	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

²⁷⁹ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
UK-Northern Ireland	46.2	0.34%
UK-Scotland	28.0	0.20%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Northern Ireland is in line with the EU27 mean.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
UK-Northern Ireland	not available	not available	not available	33.6	not available
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of judges and administrative personnel are not available, the number of lawyers per 100,000 inhabitants is below the EU27 mean.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four cathegory are provided: dark green for when the number of icoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
UK-Northern Ireland	not available	not available
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As the court system caseload is concerned, data is not available

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
UK-Northern Ireland	NA	NA	NA	NA
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
First instance courts				
UK-Northern Ireland	NA	NA	NA	NA
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

The efficiency of the system cannot be assessed, because for the main cases categories, the data is not available.

Additional deficiencies: ICT infrastructure is not adequate, especially as communication between courts and parties is concerned.

7. RECOMMENDATIONS

Business-friendliness:

No recommendation due to lack of data.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too

high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system. Unfortunately, for UK-Northern Ireland the adequacy of available resources to the needs of the system cannot be assessed, because the data on the caseload are not available. More data on the functioning of the system should be collected.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. Unfortunately, for UK-Northern Ireland data on the efficiency of the system are not available and should be collected.

Additional recommendations:

Data on the caseload and efficiency of the system according to the main case categories is not available; there are no quantitative data about ADR and mediation.

ICT tools for the communication between courts and parties should be explored and further developed.

ANNEX: COUNTRY-STATISTICS

First instance

UK-Northern Ireland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	NA	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Second instance

UK-Northern Ireland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	NA	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Highest instance

UK-Northern Ireland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NA	NA	NA	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	NA	NA	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

29. UK-SCOTLAND

1. BUSINESS-FRIENDLINESS

Q1: Business-friendliness of land and other property registration systems: average/median duration of procedures to register ownership/change of ownership; average/median of costs of registering ownership/change of ownership; documents required for such registration; possibility of using online services provided by public administration for such registration systems; number of properties registered by a person established in another MS.

Subjective data:

	Total		Justice	
	UK-SCO	EU27 Mean	UK-SCO	EU27 Mean
Number of procedures	NA	5	NA (NA)	1 (27%)
Time (days)	NA	31	NA (NA)	9 (26%)
Cost (% of property value)	NA	4.9	NA (NA)	1.1 (21%)
% of procedures possible by Internet	NA	43	NA	67

% of the total in brackets

Objective data from Land registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of properties registered by a person established in another member State: NA

Q2: Business-friendliness of the company registration system: average/median duration of procedures to register a new firm; average/median of costs of registering a new firm; documents required for such registration; possibility of using online services provided by public administration for the registration of companies; number of registered companies established in another MS.

Subjective data:

	Total		Justice	
	UK-SCO	EU27 Mean	UK-SCO	EU27 Mean
Number of procedures	NA	6	NA (NA)	1 (16%)
Time (days)	NA	14	NA (NA)	2 (17%)
Cost (% of per capita GNI)	NA	5.2	NA (NA)	0.8 (24%)
% of procedures possible by Internet	NA	83	NA	95

% of the total in brackets

Objective data from Business registry:

	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Registration cases	NA	NA	NA	NA

Disposition Time: NA

Number of registered companies established in another member State: NA

Q3: Business-friendliness of insolvency or bankruptcy proceedings: average/median duration of insolvency or bankruptcy procedures; average/median of costs of insolvency or bankruptcy procedures; % of proceedings resulting in restructuring rather than winding-up; average/median duration taken to repay creditors; average/median % of debt recovered; number of providers in charge of the insolvency or bankruptcy proceedings.

	UK-SCO	EU27 Mean
Time (years)	NA	1.9
Cost (% of estate)	NA	10.5
Recovery rate (%)	NA	60.6

% of proceedings resulting in restructuring rather than winding-up: NA

Average/median duration taken to repay creditors: NA

Number of providers in charge of the insolvency or bankruptcy proceedings: NA

Additional figures about insolvency and bankruptcy (2010):

	Euler-Hermes	Credit Reform
Number of insolvencies	NA	NA
Number of firms	NA	NA
Ratio	NA	NA

Q4: Business-friendliness of obtaining licences necessary for business (e.g. construction permits, sales permits, activity permits etc): average/median duration of procedures to obtain permits; average/median of costs of obtaining permits; documents required for such procedure and the possibility to fill these on-line.

	UK-SCO	EU27 Mean
Number	NA	5.1
Time (days)	NA	39
Cost (€)	NA	309

Documents required for such procedure: NA

Possibility to fill these on-line: NA

2. RESOURCES OF JUSTICE AND COURTS' FRAMEWORK

Q5: Total annual approved public budget allocated to the courts (by sector of judiciary²⁸⁰ and broken down by main categories of expenditures including expenditure on information and communication technology in the courts (e-justice) and as a percentage of the general government budget and the central government budget)

Courts budget	Budget in €	Budget in €/Population	% of general government expenditure ²⁸¹
TOTAL annual approved budget allocated to the functioning of all courts	146,420,820	28.0	0.20%
Annual public budget allocated to (gross) salaries	52,888,680	10.1	0.07%
Annual public budget allocated to computerisation (equipment, investments, maintenance)	4,914,000	0.9	0.01%
Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid.	13,718,250	2.6	0.02%
Annual public budget allocated to court buildings (maintenance, operating costs)	51,480,000	9.9	0.07%
Annual public budget allocated to investments in new (court) buildings	NAP	NAP	NAP
Annual public budget allocated to training and education	1,170,000	0.2	0.002%
Other	22,249,890	4.3	0.03%

The overall budget of the justice system is 1,993,680,000 euros. This includes the budget for the court system, legal aid, prison system, Council of the judiciary, functioning of the Ministry of Justice and other budgets (community justice services, drugs and community safety, police and fire pensions, criminal injuries compensation, Scottish Tribunals Service, Scottish Resilience, Police - central government, Accountant in Bankruptcy, central government grants to local authorities).

Q6: The number of 1) judges, 2) lawyers (national and EU lawyers -established on the basis of the Lawyers Directive 98/5), 3) notaries and 4) enforcement agents. The number of European lawyers acting before a national Court on a cross border basis (directive 77/249).

	Professional judges sitting in courts full time	Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Lawyers	EU lawyers	Notaries	Enforcement agents
Number	185	670	10,732	NA	NA	25

²⁸⁰ Where possible, replies should separate data among the main judicial sectors, such as civil, commercial, tax and labour law.

²⁸¹ General government expenditure is based on 2010 Eurostat data. UK General government expenditure has been multiplied by the % of Scotland's population of the UK total (about 8.4%).

Number / population *100,000	3.5	12.8	205.5	NA	NA	0.5
Number / State + Local annual expenditure in Billions	2.6	9.3	149.1	NA	NA	0.3

Number of European lawyers acting before a national court on a cross-border basis (Directive 77/249): data not available.

Judges

There are 185 professional judges sitting in ordinary and administrative courts, including 168 at first instance²⁸², and 17 at second instance. Furthermore, there are 99 professional judges sitting in courts on an occasional basis. In addition to professional judges, in Scotland there are 386 non-professional judges performing various judicial functions.

Non-judge staff

Of the 1,500 non-judge staff units of personnel who are working in ordinary and administrative courts, for 1,350 the main tasks are to assist judges with case file preparation, as well as during the hearing, recording court proceedings, helping to draft the decisions, and other activities necessary for the smooth proceedings in the courts. Another 150 are in charge of different administrative tasks and of the management of the courts (management of human resources, as well as of premises and equipment, including computer systems, financial and budgetary management, training management).

In Scotland, there is no Rechtspfleger or a similar body with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal.

The ratio of professional judges sitting in courts to non-judge staff who are working in courts is 1 to 8.1.

Other actors of the non-criminal justice system

Lawyers: in administrative cases, they have a monopoly on legal representation. Only advocates and solicitor-advocates can conduct cases in the Court of Session (civil). In the Sheriff Court, representation of third parties is generally restricted to solicitors and advocates. Lay representatives are permitted to conduct litigation, including appearing, in summary causes and small claims in the Sheriff Court; and in addition, section 7 of the Home Owner and Debtor Protection (Scotland) Act 2010 makes provision for approved lay representatives to represent debtors in repossession cases in the Sheriff Court. Otherwise, lay representation is limited to the various tribunals that consider matters relating to employment, mental health, land disputes, etc. This number does not include legal advisors.

Notaries: the number of notaries in Scotland is not available.

Bailiffs acting as **enforcement agents:** The Officers of Court hold a commission in terms of their enforcement duties but may also carry out private work.

Q7: Workload of courts on a disaggregated level (e.g. court districts, regions, cities), including the number of incoming and resolved cases for each court district (alternatively regions, cities) and the number of judges and non-judge staff for each court district (alternatively regions, cities)

Answer: only aggregated data available.

Incoming first instance non-criminal cases/Professional judges sitting in courts full time	Incoming first instance non-criminal cases/Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non-criminal cases/ (judges and administrative personnel)
903	249	77

The numbers provided in the table above are indicators of the numbers of other than criminal cases (including civil and commercial, administrative and other cases) per member of different categories of

²⁸² Including 22 Outer House Senators, 1 Scottish Land Judge, 141 Sheriffs; and 4 Stipendiary Magistrates.

personnel working in the courts. We do not distinguish between ordinary (criminal and other than criminal), administrative and fiscal judges (or other specific categories) or between administrative personnel allocated to different jurisdictions as the various judiciaries are organized differently and the result of such distinction would not be comparable. It should therefore be clear that what is provided are indicator of the caseload in other than criminal matters and not the actual caseload. At the same time, the total number of other than criminal cases includes by definition all non criminal cases (civil and commercial, administrative and others).

Only first instance cases are considered as they provide the overall number of incoming from a justice system perspective. In second and highest instance courts deal with first instance cases, which have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

Q8: Percentage of courts using electronic tools for case-management and tracking of cases; percentage of procedures using electronic tools per jurisdiction.

There are electronic tools for case-management and tracking of cases in 100% of courts.

In addition to supporting organisational level functions with tools such as case management and case tracking systems, ICT can, on the one hand, support judges' and court registrars' activities at an individual level, and on the other hand, enable one or two way electronic communication with professional and non-professional court users. Within the first category, UK-Scotland 2010 data shows that computer facilities for supporting judges' and court registrars' activities such as Word processing, electronic database of case-law, electronic files, e-mail, Internet connection, are available in 100% of courts. As to the electronic communication between courts and their institutional environment, on the one hand, the possibility to follow up on a case online and an access to court electronic registers, is available in 100% of courts; on the other hand, the possibility to use a service for the electronic processing of small claims or undisputed debt recovery, or e-file a case is not available.

The following table provides a summary of the justice system ICT installed base through four ICT indicators, each ranging between 0 (minimum) and 4 (maximum):²⁸³

- *Computer facilities used for the direct assistance of judges and court clerks*, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU Member states.
- *Systems for the registration and management of cases*, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU Member states.
- *Electronic communication and information exchange between the courts and their environment*, which is calculated on the basis Electronic Web forms, court websites, possibility to follow up cases online, possibility to access electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Videoconferencing technologies data provided by EU Member states.
- *Overall ICT installed base*, which is calculated on the basis of the previous three indicators.

Country	ICT			Overall ICT installed base
	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	
UK-Scotland	4.0	4.0	2.5	3.5
EU27 Average	3.9	3.6	2.4	3.3
EU27 Median	4.0	4.0	2.4	3.3

²⁸³ ICT Sub-indicators are displayed in Table A1 in annexes to the comparative analysis part.

3. USE AND ACCESSIBILITY OF JUSTICE

Some definitions (for more detail see the methodological note)

Clearance Rate: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

The DispositionTime: determines the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

Q9: Case Disposition Time per sector of judiciary (average/median length of proceedings and average number of hearings until the final court decision at 1st instance/until enforcement of decision)

UK-Scotland	Year	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
First instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA
Second instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA
Highest instance	DT 2006	NA	NA	NA	NA
	DT 2008	NA	NA	NA	NA
	DT 2010	NA	NA	NA	NA

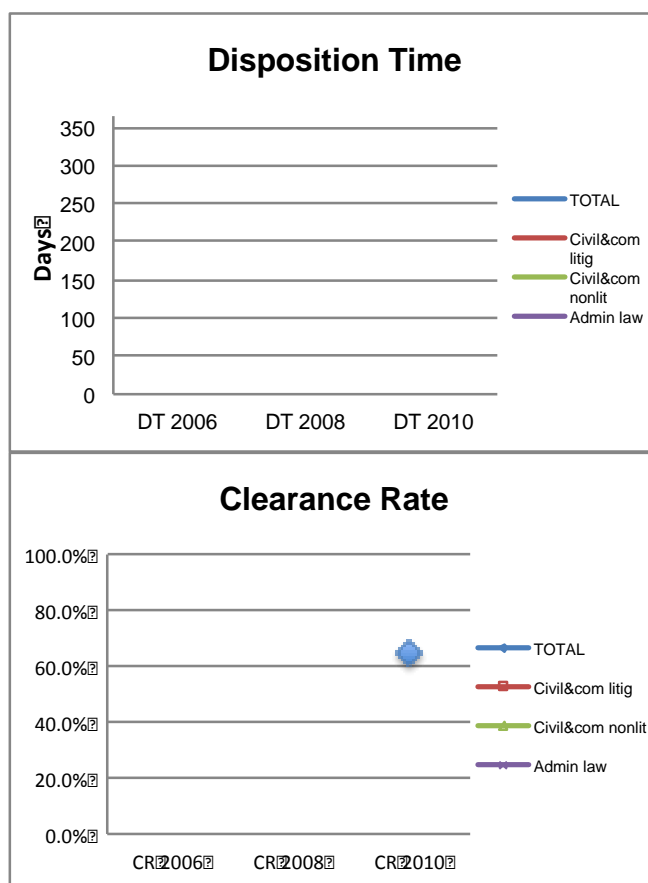
Median EU27 DT	Instance	TOTAL (civil&commercial+administrative+ other cases) (in days)	Civil&com litig (in days)	Civil&com nonlit (in days)	Admin law (in days)
DT 2010	First	147	216	87	205
	Second	156	206	67	362
	Highest	207	220	100	137

Q10: Clearance Rate and number of pending cases by sector of judiciary

UK-Scotland	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
CR 2010	First	65%	NA	NA	NA
	Second	75%	74%	NA	81%
	Highest	106%	106%	NA	NA

UK-Scotland	Instance	TOTAL (Civil&commercial+administrative+ other cases)	Civil&com litig	Civil&com nonlit	Admin law
Pending 31 Dec. (number of cases)	First	NA	NA	NA	NA
	Second	NA	NA	NAP	NA
	Highest	NA	NA	NAP	NA

Available data for first, second and highest instance courts efficiency can be found in the annexed tables



Q11: Number, average duration and costs of non-criminal²⁸⁴ court cases in which a simplified/accelerated procedure, e.g. order for payment procedure, small claims procedure, was used as compared to number, average duration and costs of civil and commercial cases in which the ordinary procedure was used

Answer: comparative tables:

Simplified Procedure	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec.'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Small claim	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Small claim (not Payment Order)	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ
Payment Order	NRQ	NRQ	NRQ	NRQ	NA	NA	NRQ

²⁸⁴ For the purpose of this scoreboard, a "non-criminal court case" shall include, as appropriate, any court case which involves civil, commercial, tax and labour law litigation. Where possible, replies should separate data among these 4 types of litigation.

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	NA	NA	NA	NA	NA	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

Q12: Average duration and costs of recognition and enforcement under Regulation (EC) No 44/2001 of judicial decisions in civil and commercial matters given in another Member State as compared to average duration and costs for recognition and enforcement under national law of judicial decisions in non-criminal matters given in a third State

UIHJ data: data unknown

Q13: Number, average duration and costs of cases brought before alternative dispute resolution entities, listed by type (i.e. mediation, arbitration, others) and compared to number, average duration and costs of court-based litigation cases. Number, average duration and costs of cases settled through alternative dispute resolution.

Q14: Possibility of using out-of-court settlement procedures, their average duration and costs. How frequently are these procedures used? (Where possible, replies should separate data along the main judicial sectors, such as civil, commercial, tax and labour law)

	2010 Incoming cases (number of cases)	Resolved cases (number of cases)	Settled through mediation (number of cases)	Average length (days)	Costs (€)	Pending cases on 1 Jan.'10 (number of cases)	Pending cases on 31 Dec'10 (number of cases)
Total number (1+2+3+4)	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
1. Civil mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
2. Family mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
3. Administrative mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ
4. Employment dismissal mediation	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ	NRQ

First instance civil and commercial cases	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	Court fees (€)
Total	NA	NA	NA	NA	NA	NA	NA
litigious	NA	NA	NA	NA	NA	NA	NA
non-litigious	NA	NA	NA	NA	NA	NA	NA

However, the definition of mediation in Scotland differs from the CEPEJ definition²⁸⁵, it is not carried out by a judge or prosecutor but rather by a qualified lay person.

Scotland does not have judicial mediation where a judge facilitates, advises on, decides on and/or approves the procedure. But judges and particularly sheriffs may refer parties to a mediator if they think that a more satisfactory result can be achieved. In Scotland, the only specific power given to sheriffs to refer parties to mediation relates to family cases. There is nothing to stop judges referring cases to mediation in other kinds of cases, but the lack of a specific power to do so leads some

²⁸⁵ Judicial mediation: in this type of mediation, there is always an intervention of a judge or a public prosecutor who facilitates, advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example, to establish a compensation agreement).

sheriffs to decline to refer cases. The decision to use any form of ADR will be made by the parties to a dispute on the advice of their legal representatives.

The Arbitration (Scotland) Act 2010 has come into force and a Scottish Arbitration Centre has been established.

The Cross Border Mediation (Scotland) Regulations 2011 implement Directive 2008/52/EC of the European Parliament on certain aspects of mediation in civil and commercial matters. The Regulations apply to “cross-border disputes” about such matters.

Q15: Successfully enforced, court decisions, court settlements, enforceable agreements, authentic instruments or arbitration awards (total number per year and proportion to all court decisions, per sector of judiciary)

Answer:

Enforcement procedure - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)
2006	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA
2010	NAP	NAP	NAP	NAP	NA	NA

Q16: Duration and cost of enforcement procedures for domestic enforceable titles and enforceable titles issued in another Member State (Average/median length and cost of enforcement procedures per sector of judiciary) and enforceability of 1st instance court decisions in civil and commercial matters (percentage of cases where enforcement procedure is necessary and where the appeal against the 1st instance court decision has a suspensive effect)

Enforcement proceedings in domestic law: the average length of enforcement proceedings in civil and commercial matter is unknown. There is a maximum time to enforce a court decision in this matter: 20 years. The enforcement agent in charge of enforcing a court decision can grant the debtor installments for the payment of the debt, but only with the authority of their client (UIHJ data).

Q17: Recovery rate (ratio of the amount collected by the creditor in enforcement procedures to the amount stated in the enforceable title) per sector of judiciary.

UIHJ data: data unknown

Q18: Number of services of documents made on the basis of Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters; average duration and costs of recognition and enforcement.

In 2010, in accordance with Regulation (EC) No 1393/2007 of 13 November 2007, the average length to serve a document in Scotland coming from another EU country is approximately one week (after payment of fee). Other data for UK-Scotland is not available (UIHJ data).

According to the European Judicial Atlas in Civil Matters, the service of documents under Regulation 1393/2007 is subject to different fees²⁸⁶: costs of service by Messengers-at-Arms: (i) £83.80 for personal service; and (ii) £39.20 for postal service. For clarification, this cost for postal service does not apply to postal service under Article 14.

²⁸⁶ http://ec.europa.eu/justice_home/judicialatlascivil/html/ds_otherinfostate_uk_en.jsp

Q19: Average length of employment dismissal cases from the filing of the case to decision and average length of appeals; Number of labour litigations that ends in favour of the worker broken down by types of cases in which the dismissal decision originated (e.g. disciplinary dismissal, economic dismissal, other); Number of cases in which the litigation ends with a mediation and conciliation procedure

Answer:

Employment dismissal cases - First instance	Pending cases on 1 Jan.'10 (number of cases)	Incoming cases (number of cases)	Resolved cases (number of cases)	Pending cases on 31 Dec'10 (number of cases)	Disposition Time (days)	Clearance Rate (%)	% of decisions subject to appeal (%)
2006	NA	NA	NA	NA	NA	NA	NA
2008	NA	NA	NA	NA	NA	NA	NA
2010	NAP	NAP	NAP	NAP	NA	NA	NA

The data on average length of proceedings in employment dismissal cases in 2010 is not available.
The % of pending cases for more than 3 years is not available.

4. ADDITIONAL DESCRIPTIVE INFORMATION

STRUCTURE OF COURTS

In Scotland, there are 99 courts of first instance with general jurisdiction.

Civil Law covers many areas including buying and selling houses, marriage and family law, debt and executries. Courts and tribunals can be used to resolve disputes.

Court of Session

The Court of Session is the supreme civil court in Scotland, based in Edinburgh. The Court of Session is both a court of first instance for initial consideration of cases and the court of appeal for most civil matters, although the Sheriffs Principal can also hear appeals at local level as an alternative.

The jurisdiction of the Court of Session (ie the civil matters it deals with) as a court of first instance is broadly the same as the jurisdiction of the sheriff court, although there are some matters that can be raised only in the Court of Session - judicial review of decisions by administrative authorities as an example. Decisions of the Court of Session in appeals are subject to ultimate appeal to the House of Lords.

Sheriff Court

The Sheriff Court is the local court and there are 49 sheriff courts across Scotland. The sheriff courts deal with the majority of civil cases, although, as noted above, its jurisdiction at first instance is broadly the same as the Court of Session.

Civil matters dealt with in the sheriff court include debt, claims for compensation, contract disputes, family matters such as divorce, eviction, anti-social behaviour and various applications under statutes concerned with matters such as licensing, bankruptcy and steps relating to enforcement of debt.

There are other minor civil courts in specialised fields such as the Land Court for dealing with crofting issues.

Tribunals

Tribunals also sit in Scotland, covering a wide range of subjects including employment, education, children's hearings, social security and tax. These tribunals sit in various locations across Scotland, though most cases are heard in the major centres of population, principally Edinburgh and Glasgow.

COURT STATISTICS AND CASE-FLOW MANAGEMENT

The performance of the courts is evaluated regularly in terms of performance and outputs. Scottish Court Service Board has a 'Scorecard' which covers: Judicial satisfaction, Court User satisfaction, ineffective use of court time, Court room utilisation, Waiting Times, Employee engagement. The main performance indicators at the level of the court system are: length of proceedings (timeframes), pending cases and backlogs, satisfaction of court staff and satisfaction of users (regarding the services delivered by the courts). Performance targets are set at the level of the court. There are no specific quality standards for the judicial system as a whole. There are no quantitative performance targets (for instance, a number of cases to be addressed in a month) defined for each judge. A system to monitor backlogs and cases that are not processed within a reasonable time, as well as waiting time during court proceedings is in place.

Country	Regular monitoring system of court activities					Monitoring system of court activities Index in 2010	EU27 average of monitoring system of court activities Index in 2010	EU27 median of monitoring system of court activities Index in 2010
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010			
UK-Scotland	Yes	Yes	Yes	Yes	No	0.8	0.85	0.8

The table above summarizes the availability of regular monitoring systems of court activities. The monitoring system of court activities index, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of regular monitoring systems for number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities elements.

For more details see Table 3A and Table 3B in annex 3.

ON-GOING AND FORESEEN REFORMS

The Scottish Government is currently developing extensive reforms to criminal, civil and administrative justice. Many are taking place under a four year change programme entitled Making Justice Work (<http://www.scotland.gov.uk/Topics/Justice/legal/mjw>).

5. ANALYSIS

5.1. RESOURCES OF JUSTICE

This paragraph analyses the main indicators of the resources allocated to the court system, comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27).

In 2010, the total annual approved budget allocated to all courts in UK-Scotland is 146,420,820 € (neither public prosecution nor legal aid budget is included). This correspond to 28.0 € per inhabitant, compared to an EU27 average of 41.7 € per inhabitant, and to an EU27 median of 39.6 € per inhabitant. The total annual approved budget allocated to all courts is the 0.20% of the general government expenditure (based on 2010 Eurostat data.), compared to an EU27 average of 0.44%, and to an EU27 median of 0.40%.

As regards human resources, UK-Scotland has 3.5 full-time professional judges per 100,000 inhabitants, compared to an EU27 average of 18.9 and an EU27 median of 17.9. Furthermore, there are 12.8 judges (this number include full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges, and Rechtspfleger for countries which have a such category) per 100,000 inhabitants, compared to an EU27 average of 45.6 and an EU27 median of 29.8. Overall, there are 41.6 persons (judges and non-judge staff) working in the court system per 100,000 inhabitants, compared to an EU27 average of 103.7 and an EU27 median of 92.3. The number of lawyers per 100,000 inhabitants is 205.5, compared to an EU27 average of 160.7 and an EU27 median of 104.6, while the ratio of lawyers to full-time professional judges is 58.0, compared to an EU27 average of 16.2 and an EU27 median of 7.0.

The number of incoming cases at first instance provides an indicator of the caseload that the justice system and its courts have to cope with (second and highest instance cases do not correspond to new incoming cases, but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases. The number of 2010 incoming other than criminal cases at first instance per 100 inhabitants is 3.2, compared to an EU27 average of 11.3 and an EU27 median of 6.9, while the number of incoming litigious civil and commercial cases at first instance is not available.

5.2. EFFICIENCY OF THE SYSTEM

The best available indicators on the efficiency of the EU27 judicial systems from the perspective of the impact of their functioning on the economy are the Disposition Time and Clearance Rate. This paragraph analyses the Disposition Time in 2010 (the number of days necessary for a pending case to be settled in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases comparing them with the average and median values calculated on the basis of the available data from the judicial systems of the 27 European Union member States (EU27), but also comparing them with the values for the previous years (2008 and 2006). The 2010 Clearance Rate is also provided, in order to assess whether the courts are keeping up with the incoming caseload, if the situation is improving or if it is deteriorating.

Data on 2010 Disposition Time for the total number of other than criminal cases is not available.

Data on 2010 Disposition Time for litigious civil and commercial cases is not available.

6. STRENGTHS AND SHORTCOMINGS OF THE SYSTEM

6.1. BUSINESS-FRIENDLINESS

For each criteria, the country has been classified in one of three categories according to its position relative to the EU27 mean. A green case indicates that the country is below the EU27 mean what can be considered as favourable. A red case indicates that the country is above the EU27. Finally, a yellow case indicates that the country is in the EU27 mean²⁸⁷.

	UK - Scotland			EU27		
	Number of procedures	Time	Cost	Number of procedures	Time	Cost
Registering property	NA	NA	NA	5	31	4.9

²⁸⁷ See the methodological note for more details. A grey case indicates that we do not have data to file the country or that the indicator does not exist for the dimension of business considered. Units are provided under Q1 to Q4 above and detailed in the methodological note.

Starting business Licences	a	NA	NA	NA	6	14	5.2
		NA	NA	NA	5.1	39	309

	UK - Scotland			EU27		
	Time	Cost	Recovery rate	Time	Cost	Recovery rate
Insolvency and bankruptcy	NA	NA	NA	1.9	10.5	60.6

6.2. RESOURCES OF THE JUSTICE SYSTEM

For the *Resources of the Justice System*, the attention is to how much the member State justice system budget and human resources are above or below the mean of the 29 judicial systems also considering the court system caseload.

In the following tables, as in part 6.1. (business-friendliness), three categories are used. The first category includes judiciaries which are within one standard deviation (s) from the mean; the second one with judiciaries which are between one and two times the standard deviation (s) from the mean; and the third one with judiciaries which are over the mean plus two times the standard deviation (s) or below the mean minus two times the standard deviation. The same colour code is also used: green for category 1, yellow for category 2, and red for category 3.

Colour code

	Courts budget in Euro per inhabitant	Courts budget as % of public expenditure
UK-Scotland	28.0	0.20%
EU 27 Average (AM)	41.7	0.44%
EU 27 Median	39.6	0.40%
EU 27 STDEV (S)	20.8	0.21%

The budget allocated to all courts in Scotland is in line with the EU27 mean in terms of euro per inhabitant while it is below the EU27 mean in terms of % of public expenditure.

	Judges / 100,000 inhabitants	Judge-like agents/ 100,000 inhabitants	Judges and administrative personnel/ 100,000 inhabitants	Lawyers / 100,000 inhabitants	Lawyers / judges
UK-Scotland	3.5	12.8	41.6	205.5	58.0
EU 27 Average (AM)	18.9	45.6	103.7	160.7	16.2
EU 27 Median	17.9	29.8	92.3	104.6	7.0
EU 27 STDEV (S)	10.8	36.9	49.5	109.5	21.7

The human resources in terms of professional judges and administrative personnel per 100,000 inhabitants, are below the EU27 mean. Considering all judge-like agents, Scotland is in line with the EU27 mean (if on the low end). The number of lawyers per 100,000 inhabitants is in line with the EU27 mean and the lawyers/professional judges ratio is high.

The following table provide an indication of the caseload to deal which the resouces are allocated. Only first instance cases are considered as they provide the overall number of incoming cases from a justice system perspective. In second and highest instance courts deal with first instance cases, which

have not been solved in a definitive way and, as a consequence, are not considered as new cases from a justice system perspective.

In this case four categories are provided: dark green for when the number of incoming cases per 100,000 inhabitants is below the mean minus one standard deviation (s), green when the number of cases is within one standard deviation (s) from the mean, yellow when are between one and two times the standard deviation (s) above the mean, and red when the number of cases is over the mean plus two times the standard deviation (s).

Caseload colour code

	Total other than criminal cases per 100 inhabitants	Civil and commercial litigious cases per 100 inhabitants
UK-Scotland	3.2	not available
EU 27 Average (AM)	11.3	2.6
EU 27 Median	6.9	2.2
EU 27 STDEV (S)	12.6	1.7

As regards the court system caseload, the number of other than criminal cases per 100 inhabitants is in line with the EU27 mean, while the number of litigious civil and commercial cases is not available.

6.3. EFFICIENCY OF THE JUSTICE SYSTEM

For assessing the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean of EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation (s) of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

Disposition Time (days) colour code	Clearance Rate (%) colour code
DT>522	CR <90%
522>DT>249	CR<95%
249>DT>125	95%<CR<105%
DT<125	CR>105%

	Total number of other than criminal cases DT 2006 (days)	Total number of other than criminal cases DT 2008 (days)	Total number of other than criminal cases DT 2010 (days)	Total number of other than criminal cases CR 2010 (%)
First instance courts				
UK-Scotland	NA	NA	NA	64.67%
Average (AM) EU27	240.4	255.6	249.3	
Median EU27	136.6	147.7	147.4	
STDEV (S) EU27	242.3	263.9	272.3	

First instance courts	Civil and commercial litigious cases DT 2006 (days)	Civil and commercial litigious cases DT 2008 (days)	Civil and commercial litigious cases DT 2010 (days)	Civil and commercial litigious cases CR 2010 (%)
UK-Scotland	NA	NA	NA	NA
Average (AM) EU27	290.2	291.1	284.3	
Median EU27	205.8	231.0	215.7	
STDEV (S) EU27	209.4	193.9	175.2	

Insufficient data to assess the efficiency of the system

7. RECOMMENDATIONS

Business-friendliness:

No recommendation due to lack of data.

Resources of the judicial system:

The comparative analysis shows no clear result by cross comparison of our two budget indicators (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases. Neither there seems to be a strong correlation between human resources and Disposition Time and the Clearance Rate. This leads to the hypothesis that the timely and efficient disposition of cases is more a matter of distribution and efficiency of use and procedural complexity and less a matter of amount of resources that are allocated. In this perspective, the resources of the justice system should be adequate, neither too high, generating a waste, nor too low, risking to compromise not only the efficiency but also the efficacy and quality of the system.

Efficiency of the judicial system:

As the comparative section shows, there is a quite strong correlation between other than criminal cases Disposition Time and GDP growth rate leading to the hypothesis that a low Disposition Time has a positive effect on GDP growth. As a consequence, it is important to have a court system that is capable of dealing efficiently with such cases, but also to properly monitor and evaluate such performance. Unfortunately, for UK-Scotland data on the efficiency of the system are not available and should be collected.

Additional recommendations:

Quantitative data on the efficiency of the system according to the main case categories is not available and should be collected; there is no quantitative data on ADR and mediation.

ICT tools for the communication between courts and parties should be explored and further developed.

ANNEX: COUNTRY-STATISTICS

First instance

UK-Scotland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NAP	NA	NAP	NA	NA
Incoming (number of cases)	2006	240000	140,000	NA	NA	NA	NA	100,000	110,000
	2008	165500	NA	NA	NA	NA	NA	NA	NA
	2010	167000	NA	NA	NAP	NA	NAP	NA	5700
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	5100
	2010	108000	NA	NA	NAP	NA	NAP	NA	5100
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NA	NA	NA	NA	NA	NA
	2010	NA	NA	NA	NAP	NA	NAP	NA	NA

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	NA	NA	NA	NA	NA	NA	NA	NA
CR	2010	65%	NA	NA	NA	NA	NA	NA	89%
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other

DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Second instance

UK-Scotland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NAP	NA	NAP	NAP	NA	NAP
	2010	NA	NA	NAP	NAP	NAP	NAP	NA	NAP
Incoming (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	215	215	NAP	NA	NAP	NAP	NA	NAP
	2010	5700	4300	NAP	NAP	NAP	NAP	1400	NAP
Resolved (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	130	130	NAP	NA	NAP	NAP	NA	NAP
	2010	4300	3170	NAP	NAP	NAP	NAP	1130	NAP
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NAP	NA	NAP	NAP	NA	NAP
	2010	NA	NA	NAP	NAP	NAP	NAP	NA	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	60%	60%	NA	NA	NA	NA	NA	NA
CR	2010	75%	74%	NA	NA	NA	NA	81%	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA

Highest instance

UK-Scotland	Year	TOTAL	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
Pending 1 Jan.	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NAP	NAP	NAP	NAP	NA	NAP
	2010	NA	NA	NAP	NA	NAP	NAP	NA	NAP
Incoming	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	3904	3,904	NAP	NAP	NAP	NAP	2,058	NAP
	2010	224	224	NAP	NA	NAP	NAP	NA	NAP
Resolved	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	3,385	3,385	NAP	NAP	NAP	NAP	2,214	NAP
	2010	238	238	NAP	NA	NAP	NAP	NA	NAP
Pending 31 Dec. (number of cases)	2006	NA	NA	NA	NA	NA	NA	NA	NA
	2008	NA	NA	NAP	NAP	NAP	NAP	NA	NAP
	2010	NA	NA	NAP	NA	NAP	NAP	NA	NAP

		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
CR	2006	NA	NA	NA	NA	NA	NA	NA	NA
CR	2008	87%	87%	NA	NA	NA	NA	108%	NA
CR	2010	106%	106%	NA	NA	NA	NA	NA	NA
		TOTAL other than criminal	Civil&com litig	Civil&com nonlit	Enforcement	Land registry	Business reg	Admin law	Other
DT (Days)	2006	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2008	NA	NA	NA	NA	NA	NA	NA	NA
DT (Days)	2010	NA	NA	NA	NA	NA	NA	NA	NA



Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

PART 2: COMPARATIVE ANALYSIS

Report
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Report prepared for
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1. INTRODUCTION

In the first part of the report, we examined the European Union Member States justice systems individually (i.e. country by country) in country-fiches. At this stage, several facts have been emphasised and probing analyses have been made but one step is missing: the link with the economic situation has not yet been assessed.

To do that and therefore see which features of the justice system are important for the economy, we need to shift the level of analysis from the country level to the macro level, namely the EU27 level²⁸⁸. That is the objective of this part, which is divided as follows: the data are presented (section 2) and the statistical treatment and analysis are shown (section 3). Section 4 summarises the findings and sets out recommendations.

2. DATA PRESENTATION

2.1. ECONOMIC DATA

In a general way, when one tries to assess a relationship between the economic situation and other variables, many **economic indicators** can be mobilised (unemployment rate, inflation rate, public finances surplus / deficit, output growth...). Among them, the annual GDP growth rate (i.e. the change over one year in what is produced by the whole economy) best reflects the economic situation. We envisage also variables linked to GDP growth such as investment and its determinants.

All these indicators are used by both governments (for example to build public budgets) and scholars in reports and other researches (see e.g. European Commission, 2011). They are also easily available and widely spread by the media. More precisely, we have selected the following economic indicators²⁸⁹:

- The growth rate of the economy measured by **real GDP growth rate**. This measurement accounts for differences in prices and exchange rates among countries²⁹⁰. Per capita growth rate of the real GDP can be also computed to take population into account²⁹¹. The source is EUROSTAT. The data were downloaded in April 2012. The reference years are 2010 and 2011.

²⁸⁸ An assessment of justice system's impact on the economy would be possible at the country level if data were available at several points of time. More generally, to make such an assessment, a kind of "thickness" is needed, spatial (several countries at one date – our case), temporal (one country at several dates), or both (several countries at several dates).

²⁸⁹ Because we use 2010 data for justice indicators and 2011 data for business-friendliness indicators, 2010 and 2011 economic data only will be considered for the investigations on the link with the economic situation.

²⁹⁰ The reference year for the prices and the exchange rates is 2005.

²⁹¹ Population figures are taken on 01/01 of each year.

- The **investment ratio** measured by the share of gross fixed capital formation in GDP²⁹² (in %). The source is EUROSTAT. The data were downloaded in April 2012. The reference years are 2010 and 2011.

- The **private investment ratio** measured by the share of private gross fixed capital formation in GDP²⁹³ (in %). The source is EUROSTAT. The data were downloaded in April 2012. The reference year is 2010. Data for 2011 were unavailable at the time of downloading.

- The **early-stage entrepreneurial activity** defined as the percentage of the population aged 18-64 who are either a nascent entrepreneur or owner-manager of a new business. The source is Global Entrepreneurship Monitor²⁹⁴. The data were downloaded in April 2012. The reference year is 2010. Data for 2011 were unavailable at the time of downloading.

- The established **business ownership rate** defined as the percentage of the population aged 18-64 who are currently owner-manager of an established business (i.e. own and manage a running business that has paid salaries, wages, or any other payments to the owners for more than 42 months). The source is Global Entrepreneurship Monitor²⁹⁵. The data were downloaded in April 2012. The reference year is 2010. Data for 2011 were unavailable at the time of downloading.

We envisaged two additional indicators:

- **Birth rate of enterprises** defined as the ratio of new firms to existing firms (in %). The source is EUROSTAT²⁹⁶.

- **New business density** which is the number of new registrations per 1,000 people aged 15-64. The source is the World Bank Entrepreneurship Survey and database²⁹⁷.

Unfortunately data for 2010 and 2011 were unavailable.

Table 1 below summarises the economic data used in this comparative part.

TABLE 1. THE ECONOMIC SITUATION IN 2010 AND 2011 IN THE EU27

Country	GDP growth rate		Per capita GDP growth rate		Investment		Private investment		Early-stage entrepreneurial activity		Established business ownership rate	
	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011
Austria	2.31	3.11	2.07	2.75	19.64	20.12	19.54	NA	NA	NA	NA	NA
Belgium	2.27	1.89	1.45	0.85	19.78	20.40	18.57	NA	3.7	NA	2.7	NA
Bulgaria	0.39	1.67	0.96	2.47	23.40	20.78	18.70	NA	NA	NA	NA	NA

²⁹² Both in constant prices (reference year: 2005).

²⁹³ These data are in current prices.

²⁹⁴ <http://www.gemconsortium.org/key-indicators>

²⁹⁵ <http://www.gemconsortium.org/key-indicators>

²⁹⁶ http://epp.eurostat.ec.europa.eu/portal/page/portal/european_business/special_sbs_topics/business_demography

²⁹⁷ <http://econ.worldbank.org/research/entrepreneurship>

Cyprus	1.14	0.48	0.35	0.32	20.27	17.39	14.76	NA	NA	NA	NA	NA
Czech Republic	2.74	1.65	2.36	1.40	24.98	24.29	17.10	NA	NA	NA	NA	NA
Denmark	1.30	1.00	0.87	0.53	18.00	17.90	14.06	NA	3.8	NA	5.6	NA
Estonia	2.26	7.64	2.29	7.63	20.70	24.38	15.00	NA	NA	NA	NA	NA
Finland	3.73	2.85	3.24	2.40	19.07	19.40	16.09	NA	5.7	NA	9.4	NA
France	1.48	1.70	0.94	1.15	18.65	18.89	17.24	NA	5.8	NA	2.4	NA
Germany	3.69	3.00	3.94	3.06	17.48	18.06	16.45	NA	4.2	NA	5.7	NA
Greece	-3.52	-6.91	-3.90	-6.95	17.48	14.88	12.10	NA	5.5	NA	14.8	NA
Hungary	1.26	1.69	1.43	1.98	19.24	17.89	16.23	NA	7.1	NA	5.4	NA
Ireland	-0.43	0.70	-0.83	0.41	13.70	12.18	7.39	NA	6.8	NA	8.6	NA
Italy	1.80	0.43	1.31	-0.04	19.35	18.91	17.32	NA	2.4	NA	3.7	NA
Latvia	-0.34	5.47	0.24	6.36	19.10	22.57	14.21	NA	9.7	NA	7.6	NA
Lithuania	1.44	5.87	2.08	8.63	18.31	20.24	11.42	NA	NA	NA	NA	NA
Luxembourg	2.68	1.55	0.93	-0.39	21.14	22.41	12.86	NA	NA	NA	NA	NA
Malta	2.30	2.06	2.11	1.27	14.07	11.93	14.45	NA	NA	NA	NA	NA
Netherlands	1.69	1.17	1.14	0.68	17.92	18.74	14.17	NA	7.2	NA	9	NA
Poland	3.90	4.35	3.81	4.26	21.13	21.92	13.89	NA	NA	NA	NA	NA
Portugal	1.40	-1.61	1.30	-1.60	19.86	17.89	15.38	NA	4.4	NA	5.4	NA
Romania	-1.65	2.45	-1.48	2.69	26.64	27.65	16.64	NA	4.3	NA	2.1	NA
Slovakia	4.18	3.35	3.94	3.15	22.98	23.50	17.76	NA	NA	NA	NA	NA
Slovenia	1.38	-0.17	0.66	-0.33	22.02	19.71	18.37	NA	4.7	NA	4.9	NA
Spain	-0.07	0.71	-0.42	0.35	23.45	22.03	18.89	NA	4.3	NA	7.7	NA
Sweden	6.13	3.94	5.18	3.11	18.20	18.53	14.31	NA	4.9	NA	6.4	NA
UK-England and Wales	2.09	0.65	1.38	0.00	15.95	15.66	12.40	NA	6.4	NA	6.4	NA
UK-Northern Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
UK-Scotland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

2.2. JUSTICE DATA

We divided justice data into two parts: efficiency indicators and determinants of efficiency indicators²⁹⁸.

2.2.1. EFFICIENCY INDICATORS

2.2.1.1. Other than criminal efficiency indicators for justice systems

Many indicators could be used as efficiency indicators in the justice systems,. However, in the context of this first study, we adopted Clearance Rate and Disposition Time, the two main indicators traditionnaly used by the CEPEJ.

TABLE 2. DISPOSITION TIMES IN THE EU27 (IN DAYS)

Country	Non criminal		CC total		CC Litigious		CC Non-litigious		Enforcement		Administrative	
	2008	2010	2008	2010	2008	2010	2008	2010	2008	2010	2008	2010

²⁹⁸ Other references on the study of the performance of justice systems include Dakolias, 1999, Deffains, 2011, and Roussey, 2011.

Austria	53	54	76	74	129	129	68	66	88	90	NAP	NAP
Belgium	NA	NA	NA	NA	NA	NA	NAP	NAP	NA	NA	NAP	NA
Bulgaria	148	67	NA	NA	NA	NA	NA	NA	NA	NA	123	113
Cyprus	423	545	NA	NA	NA	513	NA	NA	NA	NA	932	1340
Czech Republic	168	115	145	124	154	128	112	105	17	17	300	NA
Denmark	16	27	209	186	206	186	244	185	104	88	NA	NA
Estonia	133	120	391	120	232	215	453	87	260	NA	121	146
Finland	58	98	89	82	230	259	84	77	122	121	207	238
France	264	256	270	266	286	279	20	36	89	102	396	338
Germany	NA	131	NA	NA	NA	184	NA	NA	NA	NA	NA	373
Greece	487	510	NA	NA	NA	190	NA	NA	NA	NA	NA	2003
Hungary	56	79	79	53	170	160	48	5	105	112	158	202
Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NAP
Italy	378	395	379	393	533	493	44	162	368	413	NA	NAP
Latvia	158	139	93	126	304	330	3	19	NAP	NAP	572	472
Lithuania	45	43	55	NA	55	55	NA	NA	NA	NA	88	160
Luxembourg	NA	159	NA	NA	NA	200	NA	NA	NA	NA	NA	172
Malta	928	866	NA	NA	889	849	NAP	NA	NA	NA	NA	2758
Netherlands	NA	68	NA	NA	NA	NA	NA	NA	NAP	NAP	NA	159
Poland	58	49	75	64	166	180	41	33	54	43	111	121
Portugal	925	1096	NA	NA	430	417	NA	NA	1588	2185	NA	NA
Romania	99	156	94	212	158	217	15	59	140	37	127	269
Slovakia	137	170	283	267	346	364	212	178	214	551	316	66
Slovenia	244	180	339	334	460	431	209	218	503	324	317	205
Spain	451	473	273	274	296	289	138	133	1176	1242	375	433
Sweden	140	185	184	176	197	187	153	144	NAP	NAP	106	190
UK-England and Wales	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NAP	NAP
UK-Northern Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
UK-Scotland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NAP	NA	NA
EU 27 mean	256	249	190	183	291	284	123	100	345	402	283	514
EU 27 median	148	147	164	176	231	216	84	87	131	102	207	205
CoE mean	248	247	233	218	341	287	114	122	424	534	322	430
CoE median	150	147	173	174	215	200	84	78	208	179	241	223

TABLE 3. CLEARANCE RATES IN THE EU27

Country	Non criminal		CC total		CC Litigious		CC Non-litigious		Enforcement		Administrative	
	2008	2010	2008	2010	2008	2010	2008	2010	2008	2010	2008	2010
Austria	1.00	1.00	1.00	1.02	1.01	1.00	1.00	1.02	1.01	0.99	NAP	NAP
Belgium	NA	NA	NA	NA	NA	NA	NAP	NAP	NA	NA	NA	NA
Bulgaria	1.07	0.99	NA	NA	NA	NA	NA	NA	NA	NA	0.94	0.98
Cyprus	1.12	0.84	NA	NA	NA	0.84	NA	NA	NA	NA	0.78	0.74
Czech Republic	1.00	0.95	1.01	1.03	1.02	1.03	0.98	1.01	1.00	1.00	0.95	NA
Denmark	1.00	1.02	0.98	1.02	0.98	1.02	1.02	1.10	0.93	1.02	NA	NA
Estonia	0.93	1.11	0.75	1.10	0.99	0.98	0.69	1.16	0.76	NA	1.01	0.91
Finland	0.99	1.01	0.95	1.01	0.97	0.93	0.95	1.01	0.98	1.00	1.16	0.99
France	0.96	0.99	0.95	0.98	0.94	0.98	1.03	1.00	0.98	0.97	1.04	1.07
Germany	NA	excluded	NA	NA	NA	1.00	NA	NA	NA	NA	NA	0.96
Greece	0.88	0.79	NA	NA	NA	0.79	NA	NA	NA	NA	NA	0.80
Hungary	0.98	1.07	0.98	1.11	1.01	1.02	0.97	1.15	0.98	0.96	0.98	0.96
Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NAP
Italy	0.97	1.09	0.95	1.11	0.95	1.18	0.97	0.97	1.06	0.94	NA	NAP
Latvia	0.86	0.96	0.79	0.96	0.73	0.86	0.82	1.02	NAP	NAP	0.73	0.96

Lithuania	0.98	1.07	0.97	NA	0.97	1.02	NA	NA	NA	NA	1.40	0.83
Luxembourg	2.42	1.65	NA	NA	1.39	1.39	NA	NA	NA	NA	0.87	0.93
Malta	1.00	0.88	NA	NA	0.99	0.89	NAP	NA	NA	NA	NA	0.29
Netherlands	0.99	1.01	NA	NA	NA	NA	NA	NA	NAP	NAP	1.00	1.07
Poland	0.99	1.00	0.98	0.97	0.96	0.95	0.98	0.97	0.99	0.97	1.02	0.95
Portugal	0.95	0.88	NA	NA	0.99	1.02	NA	NA	0.90	0.73	NA	NA
Romania	0.96	0.91	0.96	0.90	0.94	0.90	0.98	0.99	0.93	0.98	0.96	0.71
Slovakia	1.03	1.06	1.04	1.02	1.09	0.98	1.00	1.05	2.92	4.24	0.96	1.02
Slovenia	1.05	1.00	1.04	0.97	1.08	0.98	0.99	0.97	1.12	1.03	1.15	1.23
Spain	0.81	0.88	0.84	0.94	0.82	0.94	1.02	1.02	0.68	0.65	0.89	1.02
Sweden	1.06	0.93	0.99	0.99	0.99	0.98	0.99	1.01	NA	NA	1.12	0.88
UK-England and Wales	NA	NA	NA	NA	NA	NA	NA	NA	28.92	NA	NAP	NAP
UK-Northern Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
UK-Scotland	NA	NA	NA	NA	NA	NA	NA	NA	NAP	NAP	NA	NA
EU 27 mean	1.04	0.99	0.95	1.01	0.99	0.99	0.96	1.03	2.95	1.19	1.00	0.91
EU 27 median	1.00	0.99	0.98	1.01	0.99	0.98	0.98	1.02	0.98	0.98	0.99	0.96
CoE mean	1.05	1.00	0.99	1.01	1.01	0.97	0.99	1.04	2.12	1.09	0.96	0.92
CoE median	0.99	0.99	0.98	0.99	0.99	0.98	1.00	1.00	0.98	0.98	0.98	0.95

The **average Disposition Time in other than criminal cases** at first Instance in the justice systems of European Union Member States decreases from 256 days in 2008 to 249 days in 2010, while the median value stays the same at 148 days. Denmark has the lowest figure both in 2008 (16 days) and in 2010 (27 days), while Malta has the highest Disposition Time in 2008 with 928 days and Portugal in 2010, with 1096 days.

The European Union Member States **average Disposition Time for civil and commercial cases** decreases from 190 days in 2008 to 183 days in 2010 while the median value increases from 165 to 176 days. Lithuania has the lowest figure in 2008 with 55 days, while Hungary has it in 2010 with 53 days. Maximum values are observed in Estonia, with 391 days in 2008 and Italy, with 393 days in 2010.

Figures for **litigious civil and commercial cases** are usually higher than for non-litigious ones, with an average of 291 days in 2008 to 284 days in 2010 (compared to non-litigious of 123 and 100 days respectively), while the median value is 231 days in 2008 and 216 days in 2010 (compared to 84 and 87 days respectively for non-litigious cases). Lithuania has the shortest Disposition Time for litigious civil and commercial cases at 55 days both in 2008 and 2010. Malta has the highest values with 889 days in 2008 and 849 days in 2010.

For **non-litigious civil and commercial cases**, the minimum is 3 days in Latvia in 2008 and 5 days in Hungary in 2010, while the maximum is 453 days in Estonia in 2008 and 218 days in Slovenia in 2010.

Enforcement Disposition Time averages from 345 days in 2008 to 402 days in 2010, with a median of 131 and 102 days respectively. The Czech Republic has the lowest Disposition Time, 17 days, both in 2008 and 2010. Portugal has the highest Disposition Time figures: 1588 days in 2008 and 2185 days in 2010.

As far as **Disposition Time for administrative law cases** are concerned, the 2008 average is 283 days while the 2010 average is significantly higher, at 514 days. The median values have a much more limited, negative variation, from 207 days in 2008 to

205 days in 2010. Values vary from a minimum of 88 days in Lithuania in 2008 and 66 days in Slovakia in 2010 to 932 days in Cyprus in 2008 to 2758 days in Malta in 2010.

As far as **Clearance Rate** is concerned, means and medians for the case categories analysed are generally near 100%.

It should be noted, however, that several countries have values below 90% in several categories. In particular, when looking at 2008 and 2010 data, Cyprus, Greece, Malta, Portugal show several areas that need attention. Some countries such as Latvia and Spain show improvements in several categories between 2008 and 2010, but the overall situation is not stable yet.

2.2.1.2. Business-friendliness indicators

Next to the above traditional justice indicators, we used, as we have done in the country-fiches part, business-friendliness indicators.

We first established an “**overall business-friendliness index**” by scoring the countries according to their rank for 9 sub-indicators: number of procedures (NP), number of licences (N), time (T) and cost (C) for registering property, starting a business and obtaining licences²⁹⁹. Since we relied mainly on the World Bank data, and since Malta does not participate in its programme, there are only 26 countries to rank. By summing up the rankings for each sub-indicator we obtain an index of business-friendliness for each dimension of business (S1, S2, S3). These indexes are then themselves summed up in turn to obtain an overall index of business-friendliness. The lowest and best value for the overall index is 9 (for a country systematically ranked 1st) and the highest and worst value is 234 (for a country systematically ranked 26th).

To make the interpretation easier and more straightforward, we normalised the score obtained to yield an index which falls between 0 and 1, with a higher index indicating a more business-friendly environment³⁰⁰.

A positive correlation of this index with the economic variables is therefore expected: the higher the overall business-friendliness index is, the better the economic records. Data are displayed in Table 4. The normalised overall index ranges from 0.24 for Spain, which is therefore the worst country in terms of business-friendliness, to 0.76 in Estonia, which is the best.

TABLE 4. INDEXES OF BUSINESS-FRIENDLINESS

²⁹⁹ Since their quality can be questioned (see the methodological note), insolvency and bankruptcy data are not retained for this part.

³⁰⁰ See the methodological note for further details.

Country	Property				Business				Licence				Overall	Normalized score
	NP	T	C	S1	NP	T	C	S2	N	T	C	S4	S1+S2+S3	
Austria	3	15	14	32	22	24	21	67	3	23	26	52	151	0.37
Belgium	22	24	25	71	2	2	19	23	15	12	9	36	130	0.46
Bulgaria	22	7	10	39	5	21	9	35	26	18	18	62	136	0.44
Cyprus	17	21	23	61	13	10	23	46	21	26	15	62	169	0.29
Czech Republic	9	16	9	34	23	19	22	64	1	1	1	3	101	0.59
Denmark	3	9	4	16	5	8	1	14	17	13	6	36	66	0.75
Estonia	3	14	2	19	10	6	11	27	10	4	2	16	62	0.76
Finland	3	9	11	23	2	14	7	23	6	10	14	30	76	0.70
France	22	23	19	64	10	1	6	17	12	9	8	29	110	0.55
Germany	11	22	16	49	23	11	17	51	6	24	22	52	152	0.36
Greece	26	5	26	57	25	4	26	55	22	19	21	62	174	0.27
Hungary	9	11	15	35	5	19	15	39	22	14	5	41	115	0.53
Ireland	11	20	20	51	5	13	3	21	5	7	20	32	104	0.58
Italy	20	18	13	51	13	2	25	40	24	6	19	49	140	0.42
Latvia	11	11	7	29	5	17	13	35	2	3	3	8	72	0.72
Lithuania	3	2	5	10	13	23	14	50	6	17	12	35	95	0.62
Luxembourg	22	19	24	65	13	21	12	46	16	15	10	41	152	0.36
Malta	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Netherlands	11	3	18	32	13	9	20	42	14	15	11	40	114	0.53
Poland	17	26	3	46	13	26	24	63	12	5	4	21	130	0.46
Portugal	1	1	22	24	10	4	8	22	18	22	23	63	109	0.56
Romania	20	7	6	33	13	14	16	43	19	21	17	57	133	0.45
Slovakia	3	11	1	15	13	17	10	40	9	8	7	24	79	0.69
Slovenia	11	25	8	44	1	6	1	8	19	20	24	63	115	0.53
Spain	11	5	21	37	25	25	18	68	25	25	25	75	180	0.24
Sweden	1	4	12	17	2	16	4	22	11	11	16	38	77	0.70
UK-Eng and Wal	17	17	17	51	13	12	5	30	4	2	13	19	100	0.60
UK-Northern Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
UK-Scotland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

2.2.2. DETERMINANTS OF EFFICIENCY INDICATORS

In this section, we will focus on the potential determinants of the two efficiency indicators developed above, Clearance Rate and Disposition Time. We used 25 variables which can be divided into three categories: caseload, resources, and other determinants.

2.2.2.1. Caseload

In order to assess the caseload of EU member States, the present work makes reference to two main indicators: the **number of incoming cases per 100 inhabitants** in the year 2010 and the **number of pending cases** at the beginning of the same year (Table 5).

While the former indicator provides a measure of the number of new cases the system has to handle, the latter provides an indication of the stock of cases present in the court system at the beginning of the period in question. The number of pending cases provides an indication of the number of cases being processed at the beginning of the period.

Data are provided for the main categories of cases from the research perspective, namely: total number of other than criminal cases (which include all the following categories plus land registry cases, business registry cases and other cases), total civil and commercial cases (which includes litigious and non-litigious cases), litigious civil and commercial cases, non-litigious civil and commercial cases, enforcement cases and administrative law cases.

A very high number of pending and incoming cases in relation to the system's capacity to deal with them may generate case overloads resulting in an increasing backlog and case delays. Delays jeopardise the parties' right to a decision within reasonable time and contribute to erode the public confidence in the judicial system.

TABLE 5. CASELOAD IN THE EU27

Country	Number of incoming cases per 100 inhabitants, 2010						Number of pending cases per 100 inhabitants, 1 January 2010					
	OTC	CC total	CC Lit	CC N-Lit	ENF	ADM	OTC	CC total	CC Lit	CC N-Lit	ENF	ADM
Austria	42.9	10.7	1.3	9.3	13.0	NAP	6.5	2.4	0.5	1.9	3.1	NAP
Belgium	NA	NA	6.3	NAP	NA	NA	NA	NA	NA	NAP	NA	NA
Bulgaria	5.4	NA	NA	NA	NA	0.4	0.9	NA	NA	NA	NA	0.1
Cyprus	3.8	NA	3.3	NA	NA	0.2	4.2	NA	3.4	NA	NA	0.6
Czech Republic	15.1	5.4	4.4	1.0	2.8	NA	3.8	2.0	1.7	0.3	0.1	NA
Denmark	49.4	1.2	1.1	0.1	7.7	NA	4.5	0.7	0.6	0.1	2.0	NA
Estonia	5.7	5.4	1.6	3.8	NA	0.3	2.7	2.6	0.9	1.7	NA	0.1
Finland	7.2	6.5	0.2	6.3	0.0	0.6	2.0	1.5	0.1	1.4	0.0	0.4
France	3.5	2.9	2.8	0.2	0.3	0.3	2.4	2.0	2.0	0.0	0.1	0.3
Germany	18.4	NA	1.9	NA	NA	0.8	4.0	NA	1.0	NA	NA	0.8
Greece	4.9	NA	4.0	NA	NA	0.8	5.0	NA	1.4	NA	NA	3.6
Hungary	6.8	6.0	2.0	4.0	0.0	0.1	2.1	1.5	0.9	0.6	0.0	0.1
Ireland	NA	NA	NA	NA	NA	NAP	NA	NA	NA	NA	NA	NAP
Italy	6.9	6.0	4.0	2.1	0.8	NAP	8.7	7.9	7.0	0.8	0.8	NAP
Latvia	5.8	5.6	2.2	3.4	NAP	0.2	1.9	1.6	1.4	0.3	NAP	0.3
Lithuania	9.2	NA	6.2	NA	NA	0.2	1.2	NA	1.1	NA	NA	0.0
Luxembourg	0.5	NA	0.4	NA	NA	0.1	0.4	NA	0.4	NA	NA	0.0
Malta	1.2	NA	1.2	NA	NA	0.0	2.4	NA	2.3	NA	NA	0.0
Netherlands	8.7	NA	NA	NA	NAP	0.7	1.7	NA	NA	NA	NAP	0.4
Poland	24.4	10.0	2.1	7.9	3.7	0.2	3.2	1.4	0.9	0.5	0.3	0.0
Portugal	5.5	NA	3.0	NA	2.6	NA	14.0	NA	3.5	NA	10.5	NA
Romania	8.2	5.1	5.0	0.1	2.5	0.5	2.5	2.2	2.2	0.0	0.2	0.1
Slovakia	11.2	4.7	2.3	2.4	0.0	0.8	6.2	3.5	2.2	1.3	0.1	0.2
Slovenia	32.8	3.4	1.8	1.5	11.3	0.2	16.1	2.9	2.1	0.8	10.7	0.1
Spain	7.3	4.6	4.2	0.4	1.8	0.9	7.2	3.1	3.0	0.2	3.4	0.7
Sweden	2.1	0.9	0.7	0.2	NAP	1.1	0.8	0.4	0.3	0.1	NAP	0.4
UK-Eng and Wal	3.6	2.8	0.5	2.3	0.0	NAP	NA	NA	NA	NA	NA	NAP
UK-Northern Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
UK-Scotland	3.2	NA	NA	NA	NAP	NA	NA	NA	NA	NA	NAP	NA
Median	6.9	5.3	2.2	2.2	2.2	0.3	3.0	2.0	1.4	0.5	0.3	0.2
Average	11.3	5.1	2.6	2.8	3.3	0.4	4.4	2.4	1.8	0.7	2.4	0.4

2.2.2.2. Resources

The main indicators of resources for the court systems of the EU Member States concern the budget allocated to the court system³⁰¹ and the human resources. As far as the **court budget**³⁰² is concerned, specific indicators are calculated in relation to the number of inhabitants and to the amount of public expenditure.³⁰³ As to **human resources**, indicators are calculated in relation to human resources for courts per 100,000 inhabitants (including **full-time professional judges; professional and non-professional staff performing a “judge-like” role** - including full-time professional judges, **professional judges sitting in courts on an occasional basis, non-professional judges**, and **Rechtspfleger** for countries which have such a category - and overall judge and non-judge staff working in the court system).

A relevant indicator of the human resources available to the system is also the **number of lawyers per 100,000 inhabitants**.

The ratio of full-time professional judges to lawyers provides an additional indicator of relative “manpower”³⁰⁴, while salary of judges is an important attraction for candidates with a high potential, both to ensure independence and to reduce the risk of corruption, so that the ratio of first instance professional judges’ salary to the average gross annual salary gives an indication of the salary in relation to that of the national population.

TABLE 6. BUDGET AND HUMAN RESOURCES

³⁰¹ Besides the obvious financial role of budget, we can note that it also indicates the will of governments to protect property rights (Roussey, 2011: 80). It constitutes a kind of signal sent to people.

³⁰² For the countries where the total annual approved budget allocated to all courts cannot be separated from the figures of the public prosecution services (Austria, Belgium, France, Germany, Greece, Luxembourg, Spain), this value has been calculated on the basis of the EU27 average 2010 ratio between the sum of the two and the courts budget which is 72%.

³⁰³ General government expenditure is based on 2010 Eurostat data.. For UK-England and Wales, UK-Northern Ireland and UK-Scotland, the UK General government expenditure has been multiplied by the % of population of each entity in the population of UK total.

³⁰⁴ Concerning the problems related to comparing judges/lawyers ratios from different countries see for example Langbein (1979).

Country	Budget		Human resources					
	Courts budget in Euro / inhabitants	Courts budget as % of public expend.	Judges per 100,000 inhabitants	Judge-like agents per 100,000 inhabitants	Judges and administrative personnel per 100,000 inhabitants	Lawyers per 100,000 inhabitants	Lawyers / judges ratio	First instance professional judges salary/average gross annual salary
Austria	59.4	0.33	17.8	26.8	73.1	89.5	5.0	1.7
Belgium	57.1	0.33	14.8	39.3	91.3	152.4	10.3	1.6
Bulgaria	15.2	0.83	29.8	29.8	109.5	160.6	5.4	3.2
Cyprus	41.7	0.42	12.9	12.9	70.5	298.3	23.1	3.0
Czech Republic	32.9	0.53	29.1	107.9	178.2	96.6	3.3	2.1
Denmark	39.0	0.16	9.0	excluded	NA	104.6	11.6	2.1
Estonia	20.0	0.46	16.7	21.7	89.5	58.8	3.5	3.4
Finland	45.2	0.24	18.0	86.6	129.1	35.2	2.0	1.6
France	39.6	0.23	10.7	55.9	88.4	79.6	7.5	1.2
Germany	68.8	0.47	24.3	154.6	209.9	190.4	7.9	0.9
Greece	40.1	0.40	29.3	29.3	89.1	369.5	12.6	1.3
Hungary	26.0	0.54	29.0	78.7	150.1	121.2	4.2	2.0
Ireland	32.5	0.14	3.2	3.8	25.6	238.6	74.4	4.1
Italy	50.3	0.39	11.0	16.1	56.8	349.6	31.9	2.1
Latvia	16.6	0.47	21.2	21.6	93.4	61.0	2.9	1.8
Lithuania	15.6	0.45	23.6	23.6	100.4	51.2	2.2	2.6
Luxembourg	94.9	0.28	36.7	36.7	95.9	371.8	10.1	1.9
Malta	24.6	0.39	9.3	9.3	98.9	287.3	30.8	2.7
Netherlands	59.5	0.33	15.2	20.6	60.7	100.4	6.6	1.5
Poland	35.7	0.85	27.8	90.5	179.7	77.1	2.8	2.1
Portugal	49.7	0.60	18.4	18.4	80.7	259.4	14.1	1.7
Romania	16.6	0.71	19.0	19.0	58.6	96.2	5.1	4.8
Slovakia	25.7	0.53	24.9	39.8	107.1	83.6	3.4	3.1
Slovenia	86.9	1.00	49.9	71.2	209.6	63.1	1.3	1.6
Spain	62.1	0.60	10.2	39.5	NA	272.3	26.7	1.5
Sweden	59.2	0.30	11.5	98.7	NA	53.1	4.6	1.4
UK-Eng and Wal	21.4	0.16	3.6	66.2	NA	299.1	83.2	3.8
UK-Northern Ireland	46.2	0.34	NA	NA	NA	33.6	NA	NA
UK-Scotland	28.0	0.20	3.5	12.8	41.6	205.5	58.0	5.2
Average	41.7	0.44	18.9	45.6	103.7	160.7	16.2	2.4
Median	39.6	0.40	17.9	29.8	92.3	104.6	7.0	2.0

Other resources can be identified: number of general and specialised courts and geographical locations in relation to the number of inhabitants, general and specialized courts ratios and average number of judges per geographical location provide an important indication of the organisation of resources and of their distribution within the territory. **ICT** can also be considered an important resource for the functioning of the system. Four ICT indicators, each ranging between 0 (minimum) and 4 (maximum), are calculated³⁰⁵:

- **Computer facilities used for the direct assistance of judges and court clerks**, which is calculated on the basis of Word processing, Electronic database of jurisprudence, E-mail and Internet connection data provided by EU member states.

³⁰⁵ ICT Sub-indicators are displayed in Table A1 in annexes.

- ***Systems for the registration and management of cases***, which is calculated on the basis of 63.1.1 Case tracking system, Court management information system and Financial information system 2010 data provided by EU member states.
- ***Electronic communication and information exchange between the courts and their environment***, which is calculated on the basis of Electronic Web forms, court websites, possibility of following up cases online, accessibility of electronic registers, applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and video conferencing technologies data provided by EU member states.
- ***Overall ICT installed base***, which is derived from the previous three indicators.

TABLE 7. JUDICIAL GEOGRAPHY, COURT SPECIALIZATION AND ICT

Country	Courts specialization and judicial geography						ICT			
	First instance courts of general jurisdiction 2010 per 100,000 inhabitants	Specialised first instance courts 2010 per 100,000 inhabitants	Total number of 1st instance courts in 2010 per 100,000 inhabitants	% of specialised 1st instance courts in 2010	All the courts (geographic locations) 2010 per 100,000 inhabitants	Judges per geographic location	Computer facilities used for the direct assistance of judges and court clerks	Systems for the registration and management of cases	Electronic communication and information exchange between the courts and their environment	Overall ICT installed base
Austria	1.8	0.08	1.9	4%	1.8	10.0	4.0	4.0	4.0	4.0
Belgium	0.2	2.43	2.7	91%	2.7	5.6	4.0	2.7	0.9	2.5
Bulgaria	NA	0.46	NA	NA	2.5	11.9	4.0	4.0	1.6	3.2
Cyprus	0.7	1.37	2.1	65%	2.2	5.8	4.0	2.0	1.0	2.3
Czech Republic	0.8	NAP	0.8	NAP	0.9	31.3	4.0	2.7	3.8	3.5
Denmark	0.4	0.02	0.4	4%	0.5	17.3	4.0	4.0	0.5	2.8
Estonia	0.3	0.15	0.4	33%	1.6	10.2	4.0	4.0	4.0	4.0
Finland	0.5	0.20	0.7	29%	1.5	11.8	4.0	4.0	3.5	3.8
France	1.2	1.78	3.0	60%	1.0	11.0	4.0	4.0	2.3	3.4
Germany	1.0	0.31	1.3	25%	1.4	17.6	4.0	3.7	2.4	3.3
Greece	4.1	0.04	4.1	1%	4.1	4.4	2.0	1.7	0.4	1.3
Hungary	1.3	0.20	1.5	13%	1.6	18.4	4.0	4.0	1.9	3.3
Ireland	0.1	0.02	0.1	25%	2.6	1.2	4.0	3.0	2.4	3.1
Italy	2.0	0.14	2.2	7%	2.3	4.8	4.0	3.3	2.8	3.4
Latvia	1.5	0.04	1.6	3%	2.2	9.8	4.0	3.0	3.5	3.5
Lithuania	1.8	0.15	2.0	8%	2.1	11.4	4.0	3.7	3.3	3.6
Luxembourg	1.0	0.98	2.0	50%	1.6	23.5	4.0	4.0	1.5	3.2
Malta	0.2	0.72	1.0	75%	0.5	19.5	4.0	4.0	4.0	4.0
Netherlands	0.1	0.01	0.1	5%	0.4	40.2	4.0	4.0	2.5	3.5
Poland	1.0	0.07	1.0	7%	1.8	15.1	4.0	3.7	2.1	3.3
Portugal	2.0	1.02	3.1	33%	3.2	5.8	4.0	4.0	4.0	4.0
Romania	1.1	0.05	1.1	4%	1.1	16.6	4.0	2.7	2.4	3.0
Slovakia	1.0	0.17	1.2	14%	1.2	21.1	4.0	4.0	2.0	3.3
Slovenia	2.7	0.24	2.9	8%	3.2	15.5	4.0	3.7	3.3	3.6
Spain	4.9	3.12	8.0	39%	1.6	6.3	4.0	4.0	1.9	3.3
Sweden	0.6	0.13	0.8	17%	1.0	11.4	4.0	4.0	1.4	3.1
UK-England and Wales	1.1	1.14	1.1	100%	1.1	3.1	4.0	4.0	2.4	3.5
UK-Northern Ireland	1.5	NA	NA	NA	NA	NA	4.0	4.0	1.8	3.3
UK-Scotland	1.9	NAP	1.9	NA	1.2	2.9	4.0	4.0	2.5	3.5
Average	1.3	0.6	1.8	0.3	1.7	13.0	3.9	3.6	2.4	3.3
Median	1.0	0.2	1.5	0.2	1.6	11.4	4.0	4.0	2.4	3.3

2.2.2.3. Other determinants

Other elements concerning allocation of resources are the **availability of legal aid** and the **existence of simplified procedures** (Table 8).

Monitoring the system's activities is important for a system, in order to assess how it is performing, how its resources are and should be allocated and how the system can be improved.

Finally, the existence of **judicial mediation and other ADR procedures** provides for an alternative use of judicial resources by comparison with the more "traditional" ones (i.e.

with judicial mediation), as well as for additional resources to deal with a potentially judicial caseload (i.e. non-judicial mediation procedures).

While legal aid and simplified procedures indicators do not require further definition, some more details for the a) monitoring system of court activities and b) judicial mediation and ADR indicators can be useful³⁰⁶:

- **Court activities monitoring system indicator**, ranging between 0 (minimum) and 1 (maximum), is based on data for availability of regular systems for monitoring the number of incoming cases, number of decisions delivered, number of postponed cases, length of proceedings (timeframes) and other court activities.
- **Judicial mediation and ADR indicator**, ranging between 0 (minimum) and 1 (maximum), is based on the data on the availability of judicial mediation procedures, non-judicial mediation procedures, arbitration and conciliation.

TABLE 8. OTHER DETERMINANTS

Country	Non-criminal cases granted with legal aid per 1000 inhabitants 2010	Monitoring system of court activities in 2010	Simplified procedures for Civil cases (small disputes) 2010	Simplified procedures for administrative cases 2010	Judicial mediation and ADR
Austria	2.1	1.0	Yes	No	0.8
Belgium	NA	0.8	Yes	Yes	1.0
Bulgaria	1.2	0.8	Yes	No	0.3
Cyprus	NA	0.8	Yes	No	0.5
Czech Republic	NA	0.8	Yes	No	0.3
Denmark	NA	1.0	Yes	No	0.8
Estonia	NA	1.0	Yes	No	1.0
Finland	8.6	0.8	Yes	Yes	1.0
France	8.0	1.0	Yes	Yes	1.0
Germany	8.6	0.8	Yes	Yes	1.0
Greece	NA	0.8	Yes	Yes	1.0
Hungary	0.8	1.0	Yes	Yes	1.0
Ireland	2.0	0.4	Yes	No	1.0
Italy	0.9	0.8	Yes	No	1.0
Latvia	NA	1.0	Yes	No	1.0
Lithuania	4.0	1.0	Yes	No	1.0
Luxembourg	NA	0.4	Yes	No	1.0
Malta	NA	0.6	Yes	No	1.0
Netherlands	23.0	0.8	No	No	0.8
Poland	NA	1.0	Yes	No	1.0
Portugal	NA	0.8	Yes	Yes	1.0
Romania	NA	1.0	Yes	No	1.0
Slovakia	NA	1.0	Yes	No	1.0
Slovenia	4.0	0.8	Yes	No	1.0
Spain	NA	1.0	Yes	Yes	1.0
Sweden	NA	0.8	Yes	No	1.0
UK-England and Wales	2.7	0.8	Yes	Yes	0.8
UK-Northern Ireland	NA	1.0	Yes	Yes	0.5
UK-Scotland	NA	0.8	Yes	No	0.8

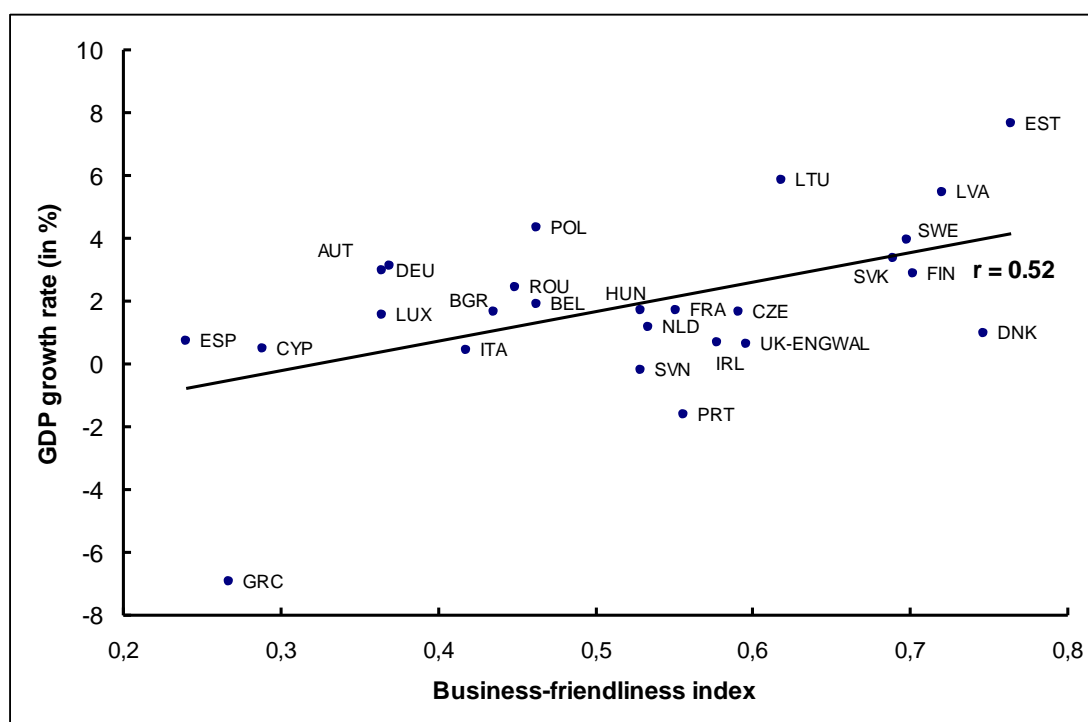
³⁰⁶ More details on these indicators can be found in Tables A2 and A3 in annexes.

3. STATISTICAL TREATMENT AND ANALYSIS

3.1. BUSINESS-FRIENDLINESS AND THE ECONOMY

Figure 1 shows the correlation between the GDP growth rate which can be considered the most widely used economic outcome, and the overall index of business-friendliness.

FIGURE 1. GDP GROWTH RATE IN 2011 AND BUSINESS-FRIENDLINESS



The trend line on the figure indicates a **clear positive relationship between business-friendliness and the GDP growth rate**³⁰⁷. It means that higher the business-friendliness index higher the GDP growth rate (and vice versa).

Furthermore, the correlation, which measures the intensity of the link between these two variables is here rather large (0.52)³⁰⁸. In addition, this correlation is statistically different

³⁰⁷ Whether the link is positive or negative can be seen from the orientation of the trend line. When the line is oriented from the South West to the North East, the link is positive and when the line is oriented from the North West to the South East, the link is negative. When the line is perfectly vertical or perfectly horizontal, there is no link at all. See the methodological note for further details on the trend line.

³⁰⁸ The correlation, which is marked "r" on the figure, is a measure of the intensity of the link between two variables. It ranges from -1 to +1. A negative correlation indicates that the link between the two variables is negative: when one variable is increasing, the other is decreasing. A positive correlation indicates that the link between the two variables is positive: when one variable is increasing, the other is increasing too. Closer to -1 or to +1 the correlation, stronger the intensity. When the correlation is 0, there is no link at all between the two variables. To know if a correlation is significantly different from 0, one generally uses a "Student's t-test" (which is performed here). This test has its own measure of quality for which the standard level is 5 %. In some cases, we nevertheless report a

from 0 at 5%. All of this therefore indicates that a favourable business environment is good for economic growth³⁰⁹.

Within the scope of business-friendliness contemplated here, three dimensions have been considered: registering property, starting a business and obtaining licences. It would be interesting to see if these dimensions have an equal role in business-friendliness or if some of them are more important for business than others.

The three figures below³¹⁰ show that the business-friendliness of property registration and of the licence system is quite closely related to growth (correlations of 0.45 and 0.54 respectively; both significant at 5%) whereas there is no link with the business-friendliness of starting a business (non-significant correlation of -0.01).

10 % level because it indicates that the correlation, though weak, is not 0. The correlation and the slope of the trend line are linked: larger the correlation, steeper the trend line slope. We have to note that the correlation gives no information about the causality between the two variables. Another well-known shortcoming of correlations is that they may be strongly influenced by extreme values ("outliers"). See the methodological note for further details on the computation of the correlation and on the Student's t-test.

³⁰⁹ We have to point out, however, that the causality is uncertain here since richer countries tend to have a better justice system (see, among others, Djankov et al., 2003).

³¹⁰ Countries are not labelled in order to lighten the figures.

FIGURE 2A. BUSINESS-FRIENDLINESS OF
REGISTERING PROPERTY AND GROWTH IN 2011

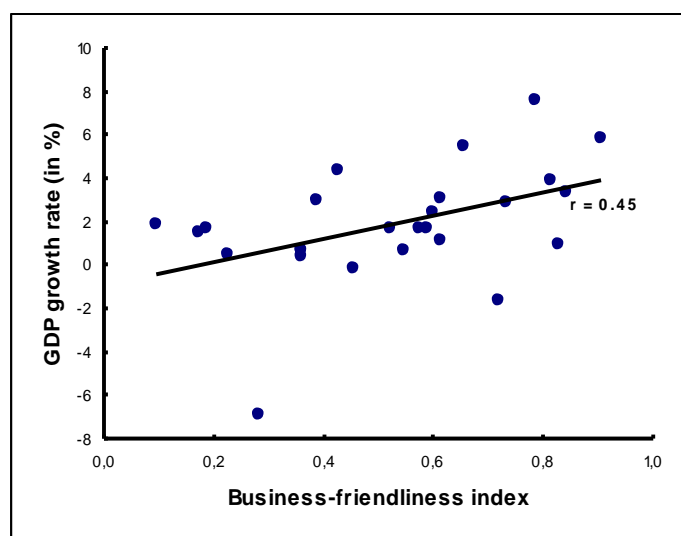


FIGURE 2B. BUSINESS-FRIENDLINESS OF
STARTING A BUSINESS AND GROWTH IN 2011

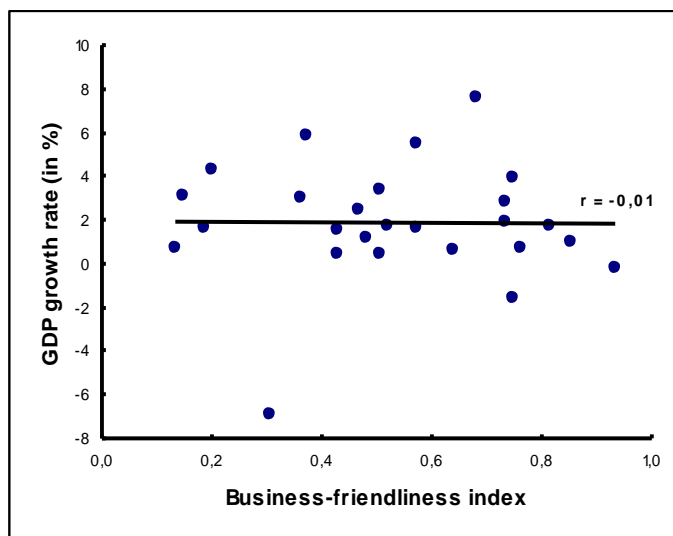
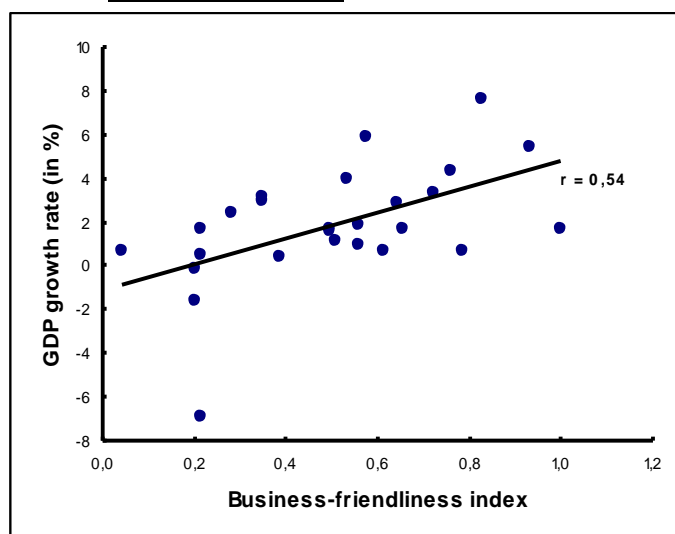


FIGURE 2C. BUSINESS-FRIENDLINESS OF
THE LICENCE SYSTEM AND GROWTH IN 2011



Until now, we have focused on the GDP growth rate because this is the most widely used measure of the economic situation. Moreover, we looked at the 2011 data because they were the most recent data available.

What would be the conclusions from a statistical treatment with another economic indicators or another year? All the correlations are shown in Table A5 in annexes. Regarding the year, the same conclusions can be drawn on the basis of 2010 data. If we take the GDP per capita growth rate instead of the GDP growth rate, the conclusions are very similar too.

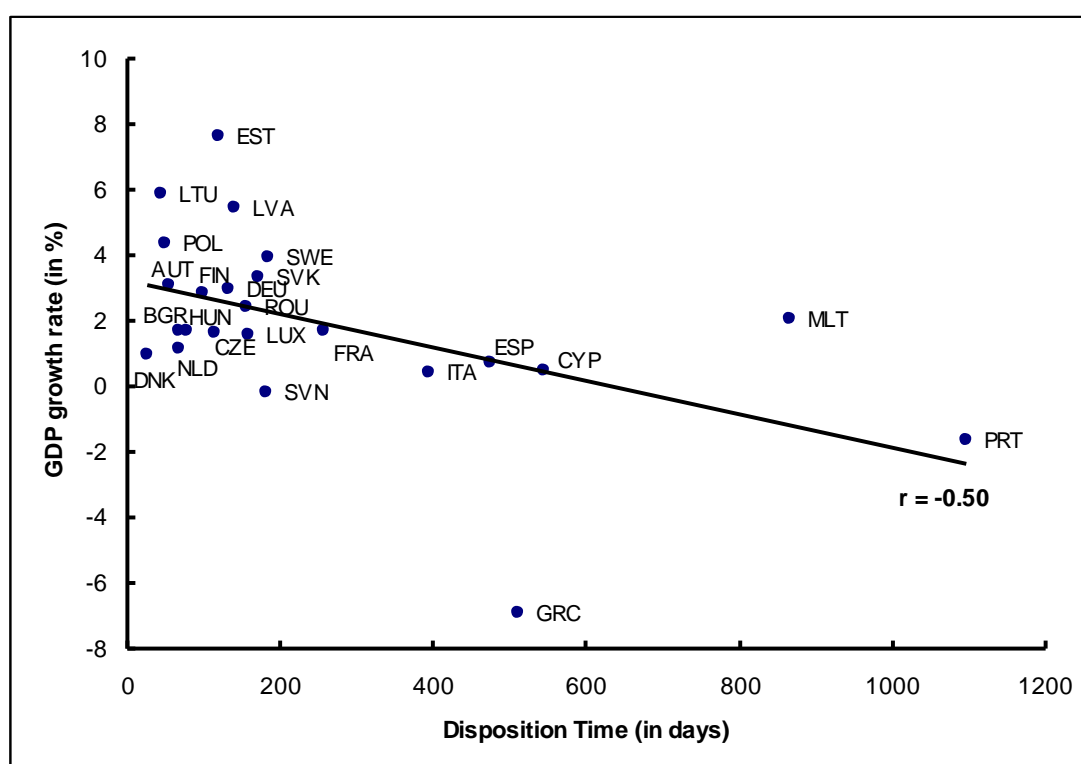
No results, however, are found with investment. It is probably due to the fact that the investment variables are expressed in % of GDP and that business-friendliness is related

to GDP growth. No conclusions can be drawn for the remaining economic variables (early-stage entrepreneurial activity and established business ownership rate).

3.2. JUSTICE AND THE ECONOMY

3.2.1. EFFICIENCY OF THE JUSTICE SYSTEM AND THE ECONOMY

FIGURE 3. DISPOSITION TIME OF NON-CRIMINAL CASES IN 2010 AND GDP GROWTH RATE IN 2011



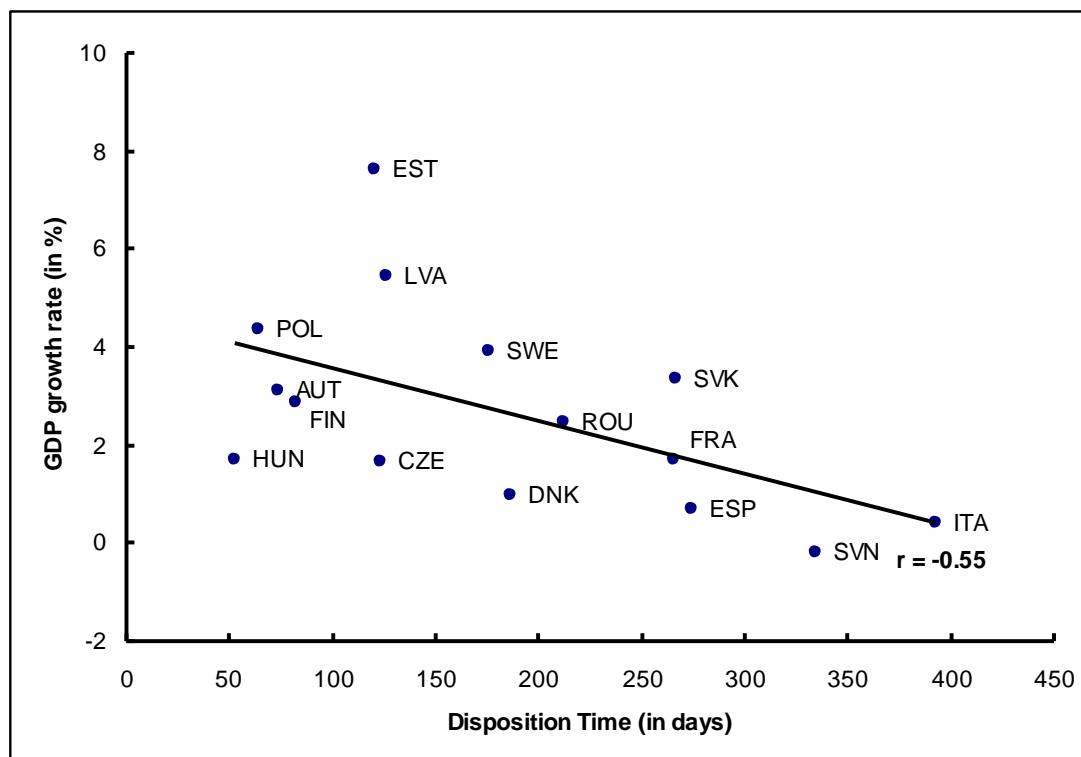
The figure shows a **strong correlation between Disposition Time and GDP growth rate** which is significant at 5%³¹¹. This correlation is negative as expected. Countries with a high Disposition Time exhibit a low growth rate. This indicates that, as predicted by the theory presented in the general introduction, countries with a well-functioning justice system enjoy better economic records.

This result is robust after differentiating among the types of cases: total civil and commercial cases, litigious civil and commercial cases, non-litigious civil and commercial

³¹¹ We have to note here that most of this correlation is due to the presence in the sample of countries which experience particularly unfavourable conditions. If recommendations are given to countries on the basis of this figure and the analysis drawn from it, these recommendations should therefore be reserved to these extreme countries.

cases, enforcement cases and administrative cases (see Figures 4, 5A, 5B, 6 and 7 below)³¹².

FIGURE 4. DISPOSITION TIME OF CIVIL AND COMMERCIAL CASES (LITIGIOUS AND NON-LITIGIOUS) IN 2010 AND GDP GROWTH RATE IN 2011



³¹² The number of countries can be different from a figure to another because, except when noted, figures are built by using the largest sample size possible according to the availability of data. This size is therefore not the result of a discretionary choice.

FIGURE 5A. DISPOSITION TIME OF CIVIL AND COMMERCIAL CASES (LITIGIOUS) IN 2010 AND GDP GROWTH RATE IN 2011

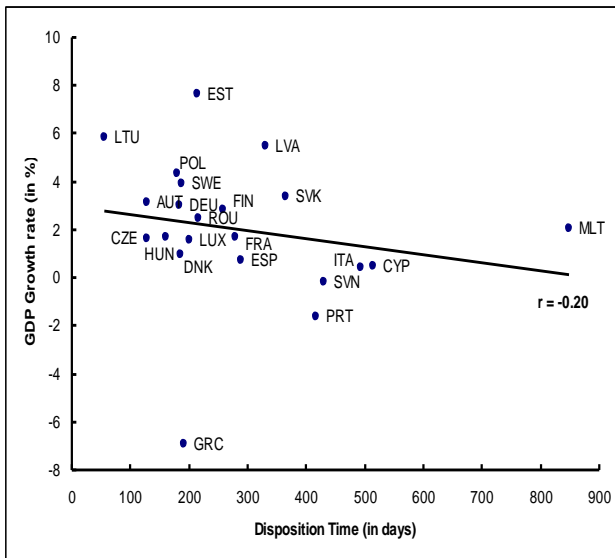


FIGURE 5B. DISPOSITION TIME OF CIVIL AND COMMERCIAL CASES (NON-LITIGIOUS) IN 2010 AND GDP GROWTH RATE IN 2011

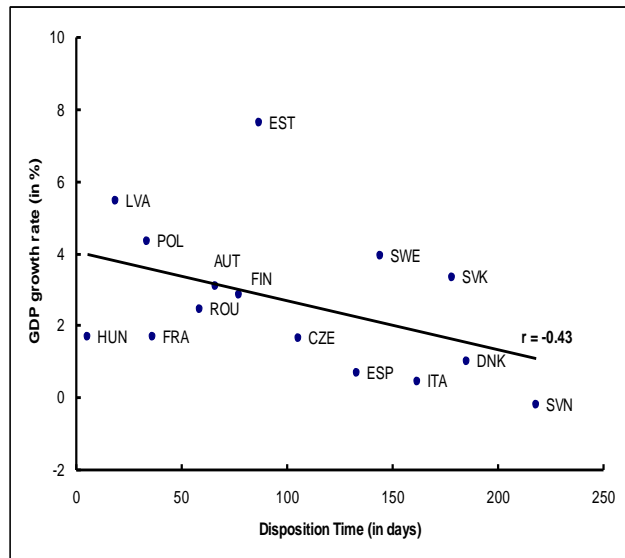


FIGURE 6. DISPOSITION TIME OF ENFORCEMENT CASES IN 2010 AND GDP GROWTH RATE IN 2011

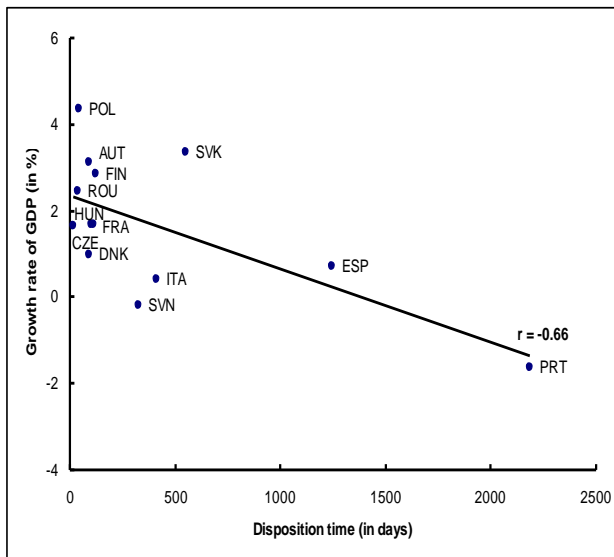
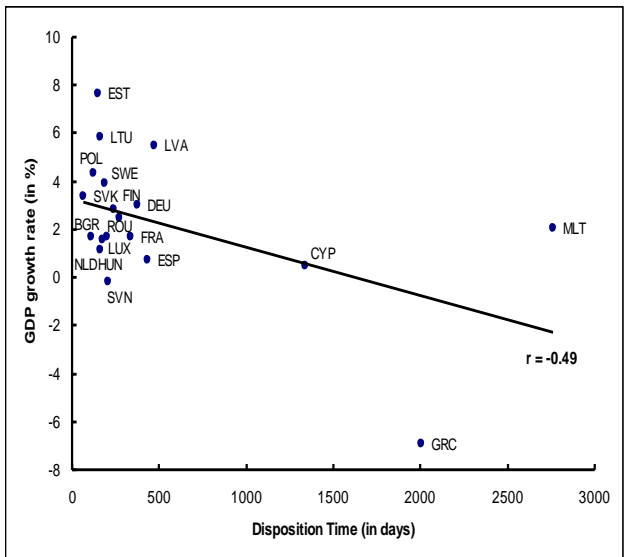
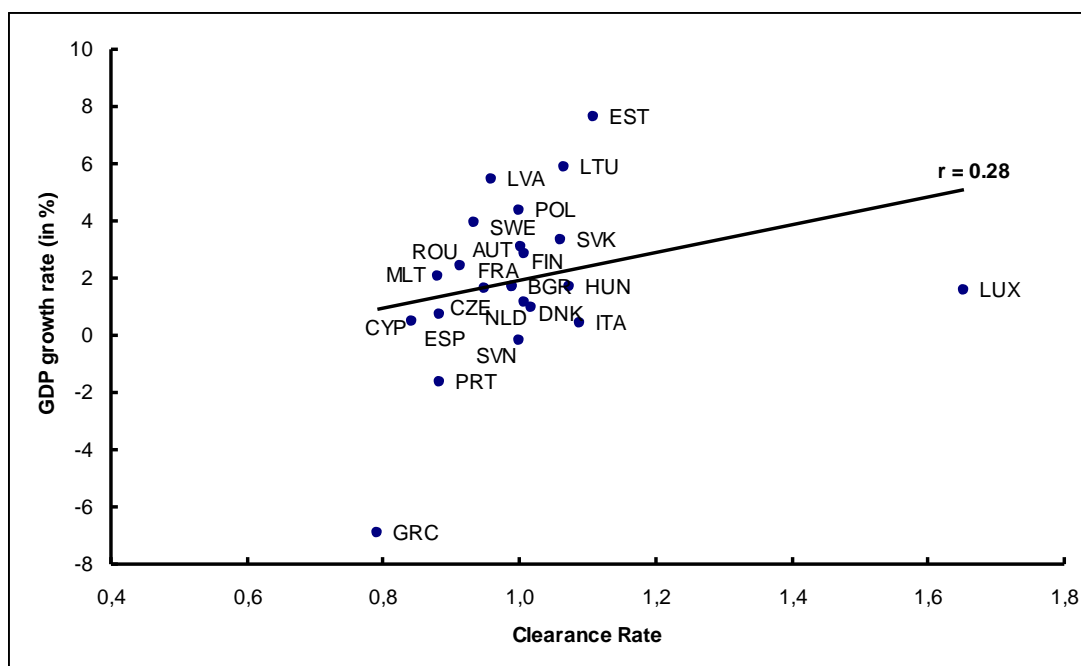


FIGURE 7. DISPOSITION TIME OF ADMINISTRATIVE CASES IN 2010 AND GDP GROWTH RATE IN 2011



Does this result still hold true with the second efficiency indicator, the **Clearance Rate**? Figure 8 shows the correlation between the Clearance Rate in 2010 and the GDP growth rate in 2011.

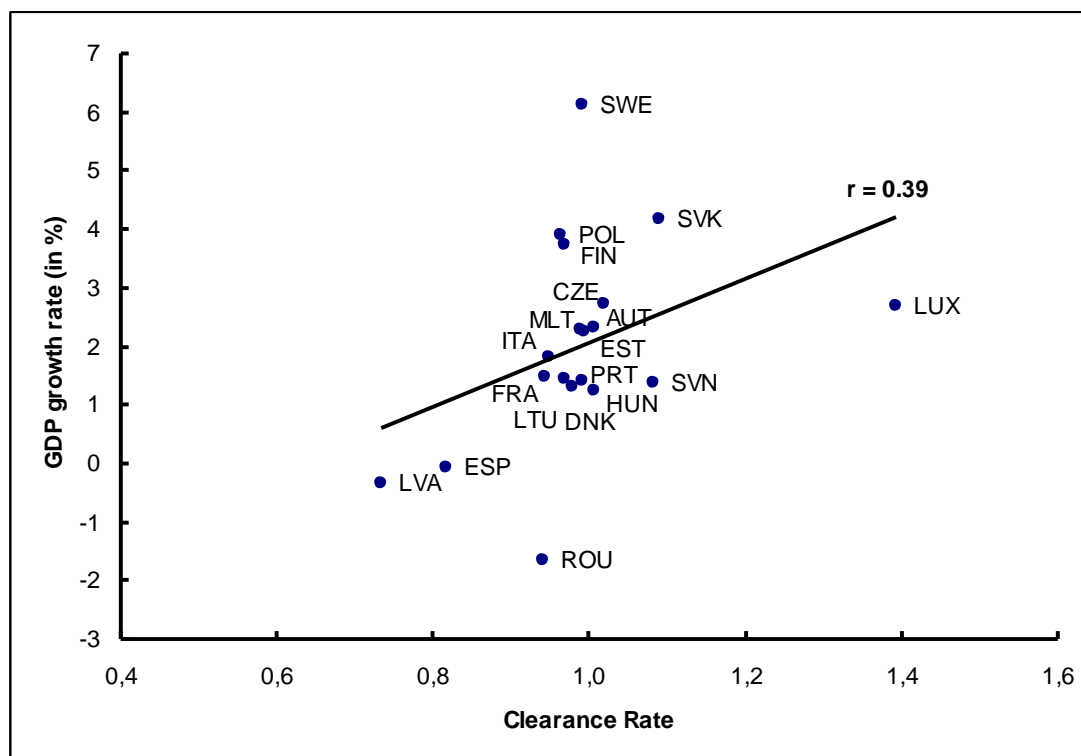
FIGURE 8. CLEARANCE RATE OF NON-CRIMINAL CASES IN 2010 AND GDP GROWTH RATE IN 2011



The Clearance Rate of 2011 appears not to be related to the growth rate in 2010. What is interesting here is that if we consider a 2 years interval, correlations between Clearance Rate and growth clearly appear. The largest correlation (0.39; significant at 10%) is shown in Figure 9 (with the Clearance Rate of litigious civil and commercial cases) but similar results can be obtained with the Clearance Rate of total Civil and commercial cases or with the Clearance Rate of administrative cases³¹³.

FIGURE 9. CLEARANCE RATE OF LITIGIOUS CIVIL AND COMMERCIAL CASES IN 2008 AND GDP GROWTH RATE IN 2010

³¹³ We stress that no significant correlation is found between the Clearance Rate in 2008 and the growth rate in 2011, thus indicating that the impact is delayed for less than three years.



3.2.2. LEVERS OF THE JUSTICE SYSTEM'S EFFICIENCY: DETERMINANTS OF DISPOSITION TIME AND CLEARANCE RATE

The analysis in the previous section has shown that there is a correlation between the efficiency of the justice system and the economy.

This section will analyse which levers should be used in order to improve Disposition Time and Clearance Rate. To do that, we need to identify the main determinants of these two indicators.

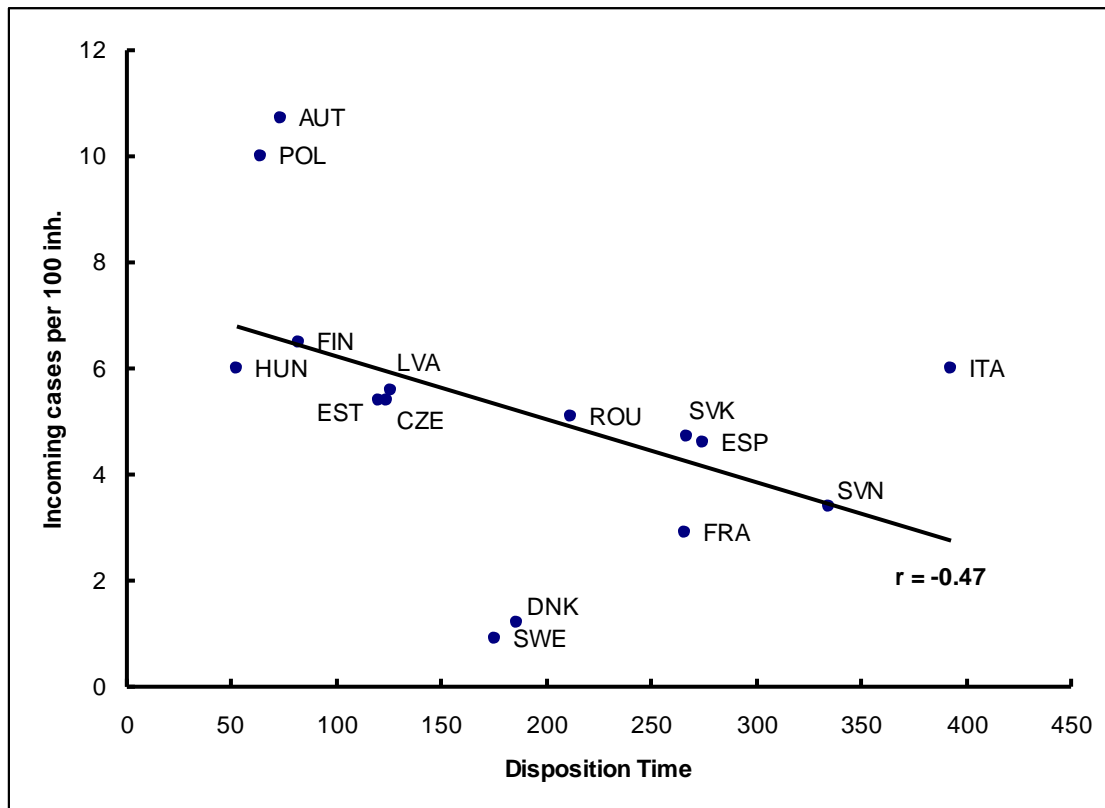
In this part, we concentrate on civil and commercial cases which appear to be more directly related to the economy (see Figures 3 and 4).

3.2.2.1. Caseload

We first look at the impact of caseload, measured by both **incoming cases** in 2010 and **pending cases** at 1 January 2010 on Disposition Time of total civil and commercial cases.

Incoming cases

FIGURE 10. INCOMING CASES PER 100 INH. AND DISPOSITION TIME OF TOTAL CIVIL AND COMMERCIAL CASES IN 2010



The result is quite counter-intuitive: **the higher the number of incoming cases, the lower the Disposition Time** (correlation negative and significant at 10%). One possible explanation is that most incoming cases are non-litigious cases which are resolved faster because of the nature of procedures itself.

To examine this hypothesis, let us look separately at the Disposition Time of litigious and non-litigious civil and commercial cases³¹⁴.

³¹⁴ Here and hereafter, correlations with variables involving litigious cases can be different from the ones reported in Tables A7 and A8 in annexes. To make rigorous comparisons, we have indeed restricted the sample (from 22 countries to 15) in order to have the same countries for both litigious and non-litigious cases.

FIGURE 11A.
INCOMING CASES PER 100 INH. AND DISPOSITION TIME
OF LITIGIOUS CIVIL AND COMMERCIAL CASES IN 2010

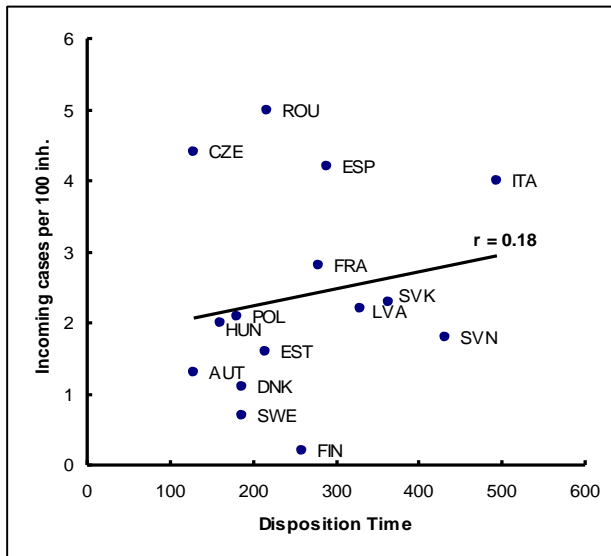
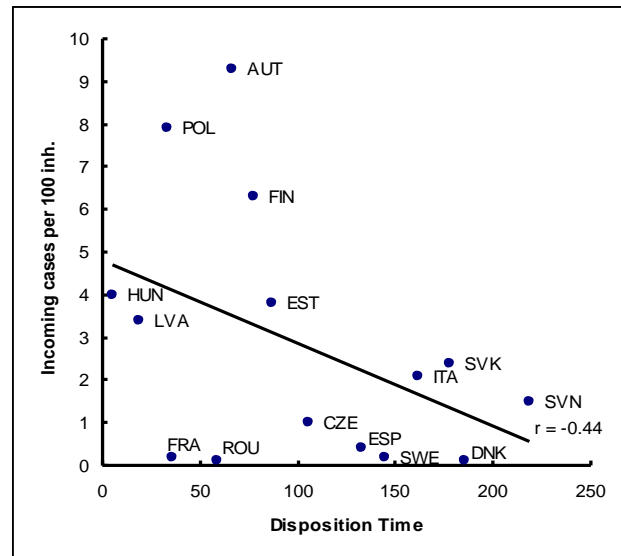


FIGURE 11B.
INCOMING CASES PER 100 INH. AND DISPOSITION TIME
OF NON-LITIGIOUS CIVIL AND COMMERCIAL CASES IN 2010



As expected, the negative link emphasised by Figure 10 is probably due to a negative link between the number of incoming cases and the Disposition Time of non-litigious civil and commercial cases (even if the correlation, equal to -0.44, narrowly fails to reach the 10% significance level).

The correlation between the caseload measured by incoming cases and efficiency indicators is non-significant for litigious cases (correlation of 0.18). One explanation could be that it is not important for a system to have a lot of incoming litigious cases if it has enough resources but also procedures and an organizational framework adequate to deal with them³¹⁵.

We have investigated a potential link between the number of incoming cases and the Clearance Rate and found no significant result whatever the category (total, litigious, and non-litigious civil and commercial cases)³¹⁶ even if both are linked by definition (the number of incoming cases enters the Clearance Rate formula as the denominator)³¹⁷.

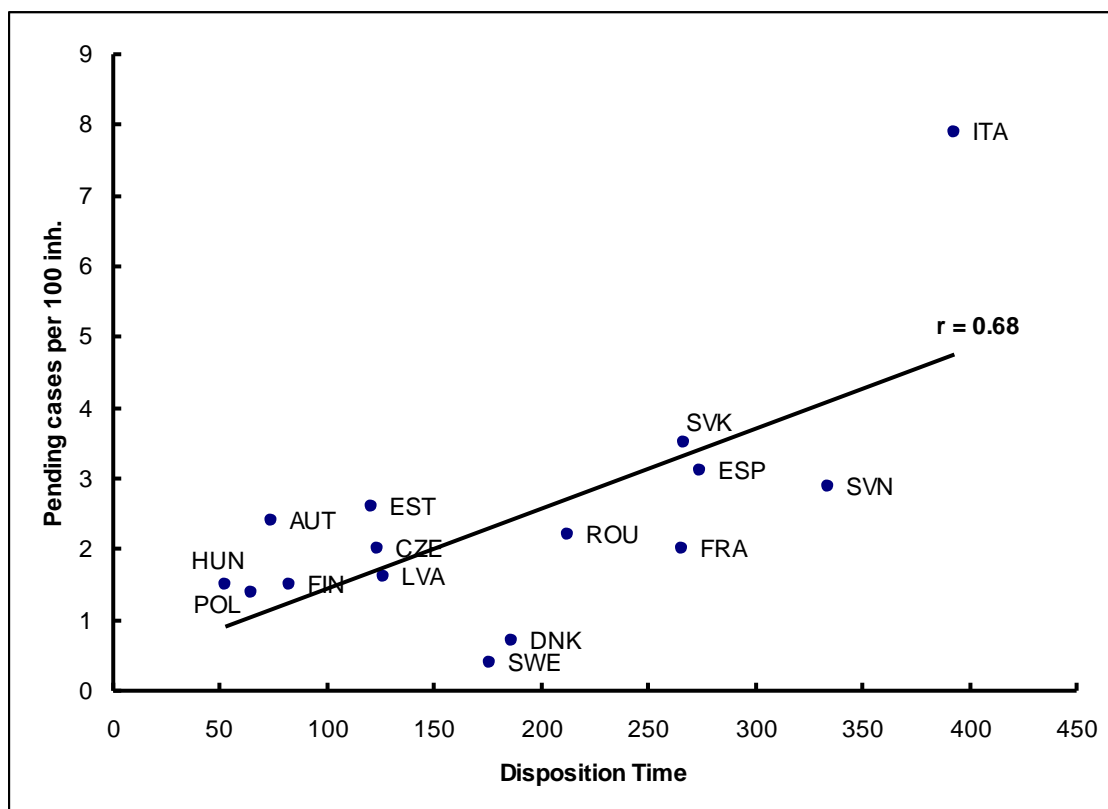
Pending cases

FIGURE 12. PENDING CASES PER 100 INH. AT 1 JANUARY 2010 AND DISPOSITION TIME OF TOTAL CIVIL AND COMMERCIAL CASES IN 2010

³¹⁵ We can note also that the causality is uncertain here since a performing justice system may incite people to use the system more (Roussey, 2011).

³¹⁶ Correlations are reported in Table A8 in annexes.

³¹⁷ This is due to the counterbalancing influence of the number of resolved cases (which enters the Clearance Rate formula as the numerator).



Not surprising, **the number of pending cases per 100 inhabitants has a strong positive correlation to the Disposition Time**. The higher the number of pending cases at the beginning of the period, the longer the Disposition Time.

Is there a differentiated influence according to the nature of cases, litigious and non-litigious? Figures 13A and 13B below give the answer.

FIGURE 13A.
PENDING CASES PER 100 INH. AND DISPOSITION TIME
OF LITIGIOUS CIVIL AND COMMERCIAL CASES IN 2010

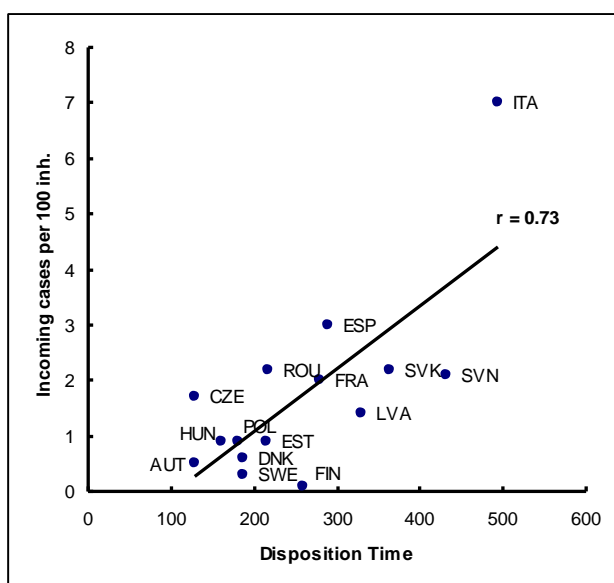
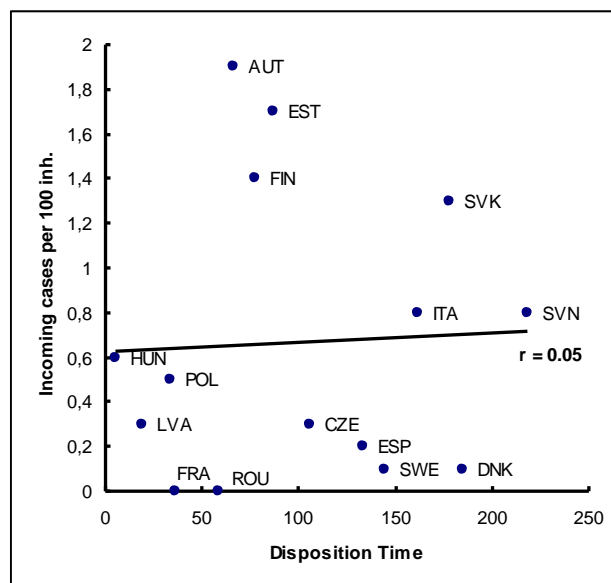


FIGURE 13B.
PENDING CASES PER 100 INH. AND DISPOSITION TIME
OF NON-LITIGIOUS CIVIL AND COMMERCIAL CASES IN 2010



The influence of the number of pending cases per 100 inhabitants on Disposition Time is exclusively due to the litigious cases.

Comparable results to the ones demonstrated by Figures 12, 13A and 13B are obtained with the Clearance Rate even if the correlations are weaker³¹⁸.

3.2.2.2. Resources

We obtained **no clear result by cross comparison of our two budget indicators** (court budget in Euro / inhabitant and court budget as a percentage of public expenditure) with the Disposition Time and the Clearance Rate of total civil and commercial cases³¹⁹. It may mean that the financial resources of the justice system are less a matter of amount than a matter of distribution. It may not be necessary to spend more but rather to spend on items that benefit the efficiency of the system.

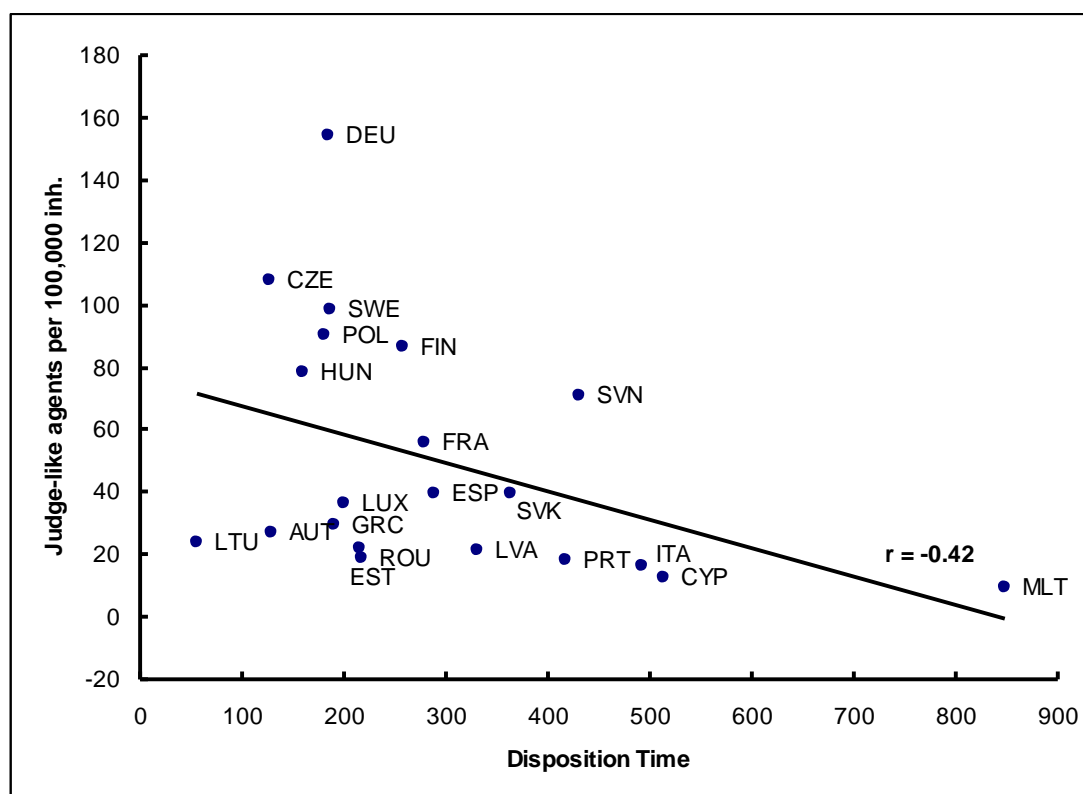
Computing the correlation between efficiency indicators and **human resources indicators** leads to the following results.

First, the **number of judges**, whatever the category considered, **is not related to Disposition Time or Clearance Rate**, except for a negative and significant (at 10%) correlation between the number of judge-like agents per 100,000 inhabitants and Disposition Time of litigious civil and commercial cases (Figure 14).

FIGURE 14. NUMBER OF JUDGE-LIKE AGENTS PER 100,000 INHABITANTS AND DISPOSITION TIME OF LITIGIOUS CIVIL AND COMMERCIAL CASES IN 2010

³¹⁸ Correlations are reported in Table A8 in annexes.

³¹⁹ We have to point out, however, that if we look at litigious cases only, the correlation between the court budget in euro per inhabitants and the Clearance Rate is positive and significant at 5%. This comes from the sample which is different (15 countries for the sample used to compute the correlation with total cases and 22 countries for the sample used to compute the correlation with litigious cases only).

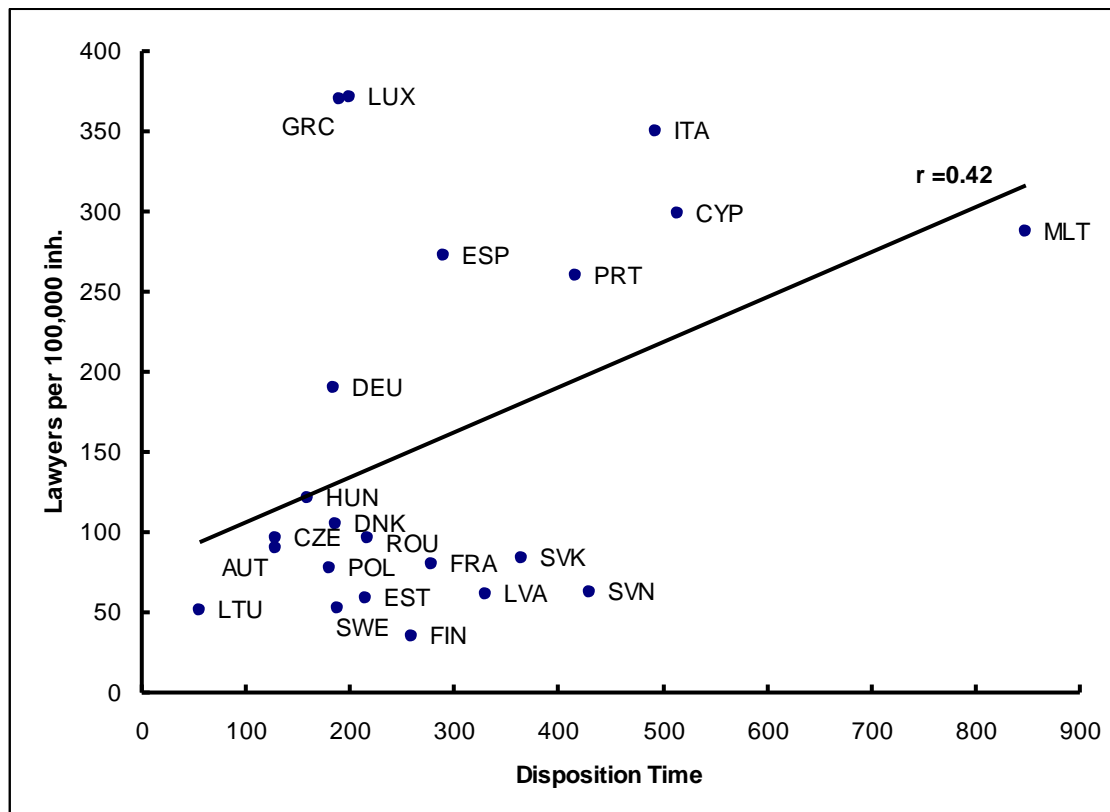


The second result concerns the **number of lawyers per 100,000 inhabitants** (Figure 15), which **appears to be positively correlated to the Disposition Time** (correlation of 0.42 significant at 10%).

The number of lawyers is typical of various geographical zones in Europe. The states of Southern Europe have the highest number of lawyers compared to the population. Such societies are more inclined to litigation than in the states of Northern Europe (see CEPEJ, 2012, chapter 12).

Therefore, the results must be interpreted with care because many elements could explain this correlation. A high number of lawyers might lead to a multiplication of procedures which in turn slows down the justice and undermines the Disposition Time. But other elements must be taken into account, for example the organisation of the procedures or the organisation of the lawyers' profession. In any case, lawyers help insure the effective protection of citizens' rights and in particular access to justice, and are therefore key actors in the chain of justice.

FIGURE 15. NUMBER OF LAWYERS PER 100,000 INHABITANTS AND DISPOSITION TIME OF LITIGIOUS CIVIL AND COMMERCIAL CASES IN 2010

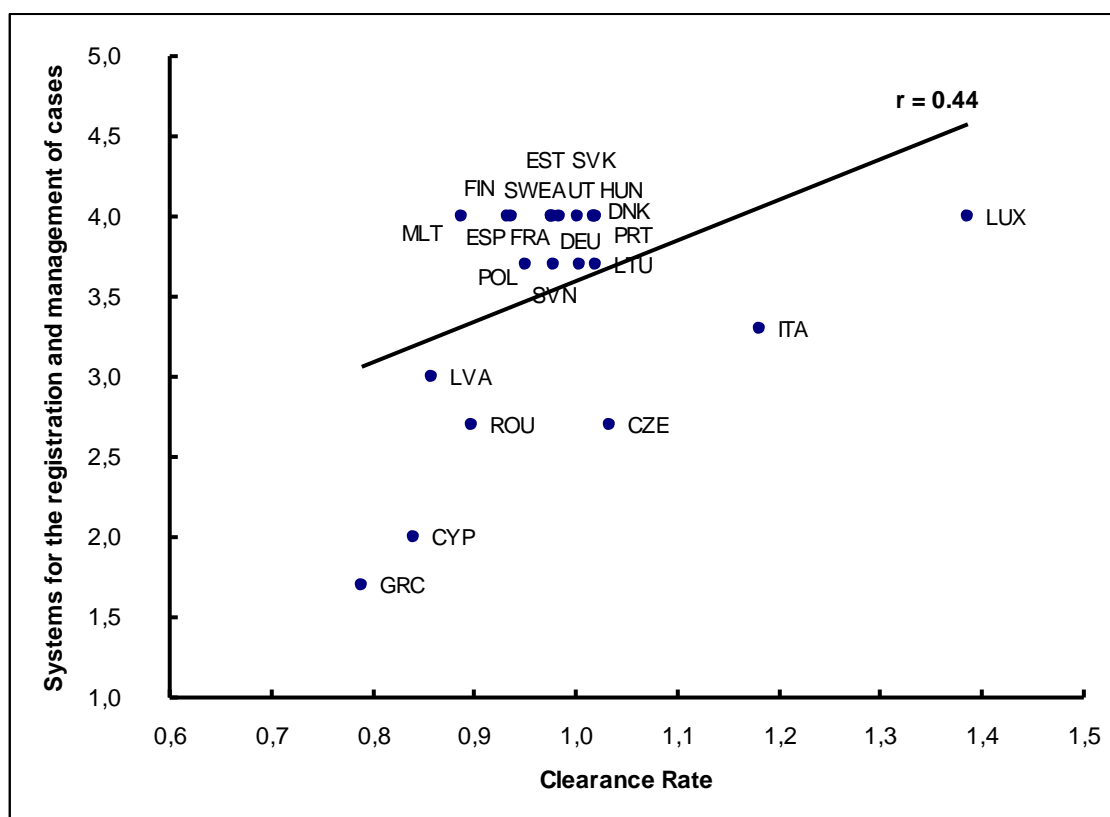


Finally, we found **no specific relation between the number of professional judges, the number of judge-like agents added to administrative personnel, and the salary of professional judges at first instance and the efficiency indicators of the justice system.**

We turn now to the **geographical distribution of resources**. The computations indicate that **there is no statistically significant link** at conventional level between the efficiency indicators and the number of courts of first instance with general jurisdiction per 100,000 inhabitants, the number of specialised courts of first instance per 100,000 inhabitants, the total number of courts of first instance per 100,000 inhabitants, the percentage of specialised courts of first instance, the total number of courts per 100,000 inhabitants, and the number of judges per geographic location.

Another type of resource envisaged here is the **ICT**. **A high index of “systems for the registration and management of cases” (Figure 16), is related to a high Clearance Rate.** The correlation, equal to 0.44, is significant at 5%.

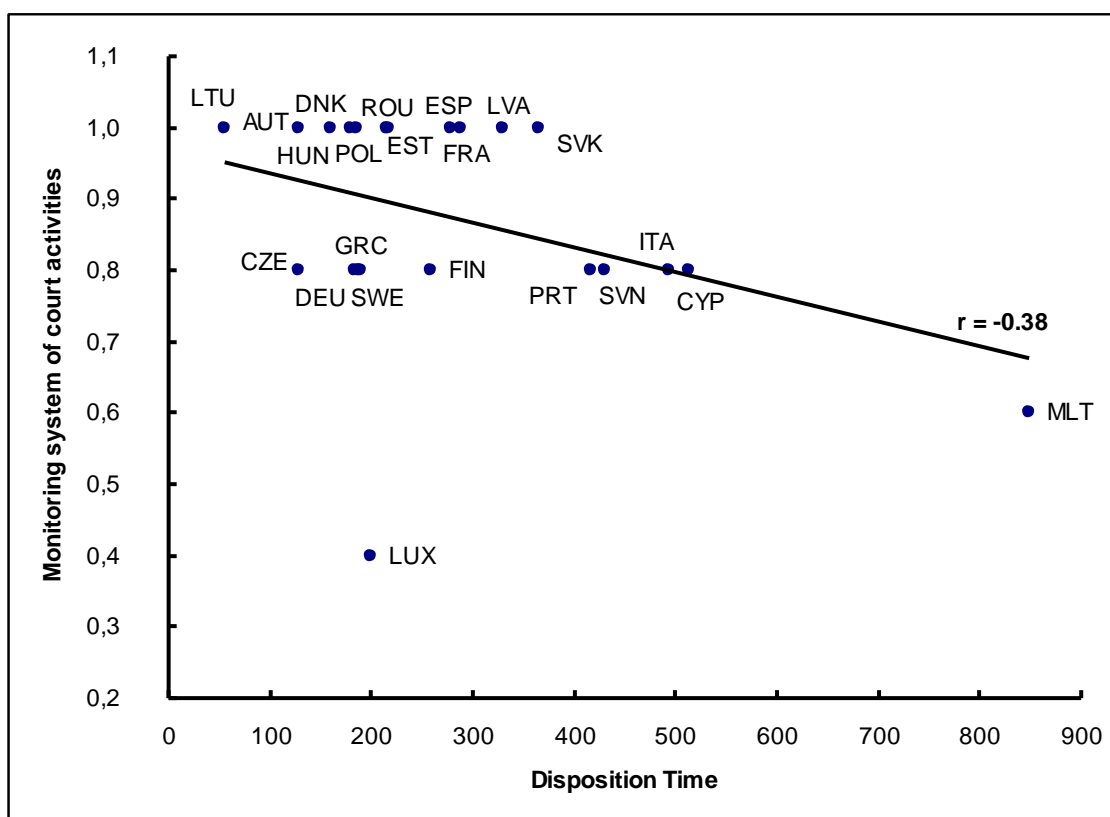
FIGURE 16. SYSTEMS FOR THE REGISTRATION AND MANAGEMENT OF CASES AND CLEARANCE RATE OF LITIGIOUS CIVIL AND COMMERCIAL CASES IN 2010



Finally, **the court activities monitoring system³²⁰ is correlated to Disposition Time** (Figure 17). In countries where this system is developed, the Disposition Time of litigious civil and commercial cases is lower (correlation of -0.38; significant at 10%).

FIGURE 17. MONITORING SYSTEM OF COURT ACTIVITIES AND DISPOSITION TIME OF LITIGIOUS CIVIL AND COMMERCIAL CASES IN 2010

³²⁰ See Table A3 in annex.



4. SUMMARY OF THE FINDINGS AND RECOMMENDATIONS

The findings are preliminary but suggestive. They are preliminary because econometric processing should be implemented to obtain a more precise assessment³²¹. They are nevertheless suggestive because though weak, the correlations go in the expected direction and are statistically significant at standard levels.

The main conclusions are as follows.

Since **business-friendliness** indicators are related to the economy, these indicators should be improved to obtain better economic outcomes. Among the four business dimensions considered here, property registration and the licence system should be emphasised. Because they are related to growth, improving the business-friendliness of registering property and obtaining licences should permit a higher growth rate. In

³²¹ The implementation of econometric methods to study the link between growth and justice have three main advantages compared with the simple correlations used here. It permits 1) to precise the sense of the causality between growth and justice (does justice cause growth or does growth cause justice), 2) to obtain a marginal effect of justice on growth (for example, decreasing the Disposition Time of 10 days would lead to an increase in the GDP growth rate of 0.1 points), and 3) this marginal effect is "net" (or *ceteris paribus*) in the sense that it takes into account the influence of all other factors which determine growth (education, initial level of development...). Unfortunately, the implementation of this kind of methods requires both the building of a theoretical model and its estimation, which were beyond the scope, especially temporal, of this report.

particular, a sharp decrease in the cost associated with these dimensions should enhance growth. A simplification of the procedure is also desirable.

The **efficiency of the justice system measured by the Disposition Time and Clearance Rate** is clearly linked to the economy and in particular to the most widely used economic indicator, GDP growth rate. General recommendations are therefore quite straightforward: countries should improve the efficiency of their justice systems in order to achieve higher growth. In other words, they should decrease their Disposition Time and increase their Clearance Rate.

What are the levers to use in order to improve these indicators?

Our study shows that the caseload in terms of overall number of other than criminal cases has an ambiguous effect on efficiency indicators:

The number of incoming cases is negatively correlated to Disposition Time, mainly because incoming cases comprise a collection of disparate categories of cases (such as non-litigious civil and commercial cases or land register cases which are repetitive, quickly resolved and require few resources).

Less surprisingly, the number of pending cases is positively correlated to Disposition Time. The number of pending cases should therefore be reduced.

The caseloads of courts with general jurisdiction can be reduced in several ways:

By removing certain types of cases from the court dockets, caseloads can be made more manageable.

Other possible solutions may include time standards, procedural simplification, implementation of specialised courts, use of technology (case tracking and management systems, Internet and Web technologies, video conferencing...), and more resources allocated to the court system. These resources include financial resources and human resources.

Regarding financial resources, we obtained no clear-cut result when budget indicators are cross-compared with efficiency indicators. It may mean that there is no need to modify the size of budget, but instead to change its distribution and concentrate financial resources on items benefiting the efficiency of the system.

We came to broadly the same conclusions with human resources and especially the number of judges, the level in itself being not relevant. The effort should therefore be directed at management and productivity (for example by improving competence through training). The geographical distribution of resources has no bearing on the determination of efficiency indicators.

Regarding ICT, the index of “systems for the registration and management of cases” has an impact on Clearance Rate. Likewise, the system for monitoring court activities appears to be linked to Disposition Time. Such systems should therefore be developed.

ANNEX 1: DATA FOR COMPARISON REPORT

TABLE A1. ELABORATION OF ICT INDEXES

Country	Computer facilities used for the direct assistance of judges and court clerks				Systems for the registration and management of cases			Electronic communication and information exchange between the courts and their environment							
	Word processing	Electronic data base of jurisprudence	E-mail	Internet connection	Case tracking system	Court management information system	Financial information system	Electronic Web forms	Court website	Follow-up of cases online	Electronic registers	Electronic processing of small claims	Electronic processing of undisputed debt recovery	Electronic submission of claims	Videoconferencing
Austria	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Belgium	4	4	4	4	3	2	3	2	3	0	1	0	0	0	1
Bulgaria	4	4	4	4	4	4	4	4	4	0	4	0	0	0	1
Cyprus	4	4	4	4	2	0	4	0	4	0	0	0	0	0	4
Czech Republic	4	4	4	4	4	4	0	4	4	4	4	4	4	4	2
Denmark	4	4	4	4	4	4	4	0	4	0	0	0	0	0	0
Estonia	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Finland	4	4	4	4	4	4	4	4	4	0	4	4	4	4	4
France	4	4	4	4	4	4	4	4	4	2	2	2	1	1	2
Germany	4	4	4	4	4	3	4	3	4	4	4	0	0	2	2
Greece	2	2	2	2	2	2	1	1	1	0	1	0	0	0	0
Hungary	4	4	4	4	4	4	4	3	4	0	4	0	1	3	0
Ireland	4	4	4	4	4	1	4	4	4	2	2	1	1	3	2
Italy	4	4	4	4	4	3	3	3	3	2	3	3	3	3	2
Latvia	4	4	4	4	4	1	4	4	4	4	4	4	4	4	0
Lithuania	4	4	4	4	4	3	4	4	4	3	4	4	1	3	3
Luxembourg	4	4	4	4	4	4	4	4	4	0	0	0	0	0	4
Malta	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Netherlands	4	4	4	4	4	4	4	4	4	4	4	0	0	0	4
Poland	4	4	4	4	4	3	4	3	4	1	4	1	1	1	2
Portugal	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Romania	4	4	4	4	4	0	4	4	4	4	0	0	0	4	3
Slovakia	4	4	4	4	4	4	4	2	4	1	4	0	0	4	1
Slovenia	4	4	4	4	4	3	4	3	4	2	4	4	3	3	3
Spain	4	4	4	4	4	4	4	4	4	0	4	0	0	1	2
Sweden	4	4	4	4	4	4	4	0	4	0	3	0	0	0	4
UK-England and Wales	4	4	4	4	4	4	4	4	4	0	0	4	0	4	3
UK-Northern Ireland	4	4	4	4	4	4	4	2	4	4	4	0	0	0	0
UK-Scotland	4	4	4	4	4	4	4	4	4	4	4	0	0	0	4

TABLE A2. ELABORATION OF MEDIATION AND ADR INDEXES

Country	Mediation and ADR			
	Judicial mediation procedures 2010	non Judicial Mediation 2010	Arbitration 2010	Conciliation 2010
Austria	Yes	Yes	Yes	No
Belgium	Yes	Yes	Yes	Yes
Bulgaria	Yes	No	No	No
Cyprus	No	Yes	Yes	No
Czech Republic	Yes	No	No	No
Denmark	Yes	Yes	Yes	No
Estonia	Yes	Yes	Yes	Yes
Finland	Yes	Yes	Yes	Yes
France	Yes	Yes	Yes	Yes
Germany	Yes	Yes	Yes	Yes
Greece	Yes	Yes	Yes	Yes
Hungary	Yes	Yes	Yes	Yes
Ireland	Yes	Yes	Yes	Yes
Italy	Yes	Yes	Yes	Yes
Latvia	Yes	Yes	Yes	Yes
Lithuania	Yes	Yes	Yes	Yes
Luxembourg	Yes	Yes	Yes	Yes
Malta	Yes	Yes	Yes	Yes
Netherlands	Yes	Yes	Yes	No
Poland	Yes	Yes	Yes	Yes
Portugal	Yes	Yes	Yes	Yes
Romania	Yes	Yes	Yes	Yes
Slovakia	Yes	Yes	Yes	Yes
Slovenia	Yes	Yes	Yes	Yes
Spain	Yes	Yes	Yes	Yes
Sweden	Yes	Yes	Yes	Yes
UK-England and Wales	Yes	Yes	No	Yes
UK-Northern Ireland	Yes	Yes	No	No
UK-Scotland	No	Yes	Yes	Yes

TABLE A3. ELABORATION OF MONITORING SYSTEM OF COURT ACTIVITIES INDEX

Country	Regular monitoring system of court activities				
	Number of incoming data 2010	Number of decisions delivered 2010	Number of postponed cases 2010	Length of proceedings (timeframes) 2010	Other 2010
Austria	Yes	Yes	Yes	Yes	Yes
Belgium	Yes	Yes	Yes	Yes	No
Bulgaria	Yes	Yes	Yes	Yes	No
Cyprus	Yes	Yes	Yes	Yes	No
Czech Republic	Yes	Yes	Yes	Yes	No
Denmark	Yes	Yes	Yes	Yes	Yes
Estonia	Yes	Yes	Yes	Yes	Yes
Finland	Yes	Yes	Yes	Yes	No
France	Yes	Yes	Yes	Yes	Yes
Germany	Yes	Yes	No	Yes	Yes

Greece	Yes	Yes	Yes	Yes	No
Hungary	Yes	Yes	Yes	Yes	Yes
Ireland	Yes	Yes	No	No	No
Italy	Yes	Yes	Yes	Yes	No
Latvia	Yes	Yes	Yes	Yes	Yes
Lithuania	Yes	Yes	Yes	Yes	Yes
Luxembourg	Yes	Yes	No	No	No
Malta	Yes	Yes	Yes	No	No
Netherlands	Yes	Yes	Yes	Yes	No
Poland	Yes	Yes	Yes	Yes	Yes
Portugal	Yes	Yes	Yes	Yes	No
Romania	Yes	Yes	Yes	Yes	Yes
Slovakia	Yes	Yes	Yes	Yes	Yes
Slovenia	Yes	Yes	Yes	Yes	No
Spain	Yes	Yes	Yes	Yes	Yes
Sweden	Yes	Yes	No	Yes	Yes
UK-England and Wales	Yes	Yes	Yes	Yes	No
UK-Northern Ireland	Yes	Yes	Yes	Yes	Yes
UK-Scotland	Yes	Yes	Yes	Yes	No

TABLE A4. DETAILED BUSINESS-FRIENDLINESS INDICATORS

Country	Property			Business			Bank. & Insol.			Licence		
	NP	T	C	NP	T	C	T	C	RR	N	T	C
Austria	3	21	4.6	8	28	5.9	1.1	18.0	72.7	2.0	53	501
Belgium	8	63	12.7	3	4	4.9	0.9	4.0	87.3	5.2	35	248
Bulgaria	8	15	3.9	4	19	1.1	3.3	9.0	31.4	10.8	49	376
Cyprus	6	42	8.7	6	9	12.3	1.5	15.0	70.8	7.3	61	313
Czech Republic	4	25	3.0	9	18	9.5	3.2	17.0	56.0	1.2	4	25
Denmark	3	16	0.6	4	7	0.0	1.0	4.0	87.3	6.2	38	215
Estonia	3	18	0.3	5	6	1.7	3.0	9.0	36.9	4.0	25	65
Finland	3	16	4.0	3	14	1.0	0.9	4.0	89.1	3.4	32	301
France	8	58	6.1	5	3	0.9	1.9	9.0	45.8	4.8	32	248
Germany	5	57	5.1	9	11	4.3	1.2	8.0	53.8	3.4	58	453
Greece	11	13	15.2	10	5	37.2	2.0	9.0	41.8	7.6	50	404
Hungary	4	17	5.0	4	18	2.9	2.0	15.0	39.2	7.6	43	185
Ireland	5	30	6.5	4	13	0.3	0.4	9.0	86.9	3.2	28	395
Italy	7	27	4.4	6	4	17.0	1.8	22.0	61.1	8.2	27	393
Latvia	5	17	2.0	4	16	2.4	3.0	13.0	56.2	1.5	21	135
Lithuania	3	3	1.1	6	22	2.6	1.5	7.0	50.9	3.4	47	273
Luxembourg	8	28	10.0	6	19	1.8	2.0	15.0	43.5	5.4	44	253
Malta	NA	NA	NA	NA	NA	NA	NA	NA	NA	1.4	58	501
Netherlands	5	5	6.0	6	8	5.1	1.1	4.0	87.7	5.0	44	263
Poland	6	150	0.3	6	32	12.6	3.0	15.0	31.5	4.8	27	173
Portugal	1	1	7.3	5	5	1.1	2.0	9.0	70.9	6.6	52	461
Romania	7	15	1.3	6	14	3.6	3.3	11.0	28.6	7.0	50	373
Slovakia	3	17	0.0	6	16	1.5	4.0	18.0	54.3	3.8	30	225
Slovenia	5	110	2.0	2	6	0.0	2.0	4.0	51.1	7.0	50	471
Spain	5	13	7.1	10	29	4.5	1.5	11.0	75.6	9.2	59	479
Sweden	1	7	4.3	3	15	0.6	2.0	9.0	75.8	4.4	34	346
UK-England and Wales	6	26	5.7	6	12	0.7	1.0	6.0	88.6	2.8	15	276
UK-Northern Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

UK-Scotland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
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TABLE A5. CORRELATIONS BETWEEN THE ECONOMIC VARIABLES AND BUSINESS-FRIENDLINESS

Variables	Year	Property				Business				Bank. & Insol.				Licence			
		NP	T	C	S1	NP	T	C	S2	T	C	RR	S3	N	T	C	S4
GDP growth rate	2010	-0.54	0.22	-0.34	-0.24	-0.24	0.18	-0.42	-0.09	0.01	0.09	0.20	-0.10	-0.40	-0.23	-0.28	-0.37
	2011	-0.47	0.06	-0.69	-0.45	-0.28	0.36	-0.58	0.01	0.26	0.08	-0.14	0.17	-0.47	-0.47	-0.29	-0.54
Per capita GDP growth rate	2010	-0.61	0.19	-0.49	-0.38	-0.23	0.25	-0.45	-0.04	0.11	0.10	0.10	-0.01	-0.41	-0.25	-0.27	-0.40
	2011	-0.47	0.01	-0.72	-0.53	-0.24	0.38	-0.52	0.05	0.29	0.06	-0.22	0.21	-0.42	-0.43	-0.22	-0.48
Investment	2010	0.06	0.07	-0.29	-0.14	0.16	0.30	-0.04	0.32	0.71	0.33	-0.51	0.64	0.30	-0.11	0.09	0.15
	2011	-0.07	0.03	-0.47	-0.29	0.09	0.32	-0.19	0.29	0.71	0.29	-0.49	0.59	-0.05	-0.37	-0.12	-0.19
Private investment	2010	-0.01	0.12	-0.12	-0.01	0.06	0.06	-0.10	0.13	0.29	0.21	-0.15	0.24	0.28	0.16	0.20	0.28
	2011	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Early-stage entrepreneurial activity	2010	-0.05	-0.21	-0.09	-0.13	-0.16	0.28	-0.16	-0.01	0.14	-0.06	-0.02	0.04	-0.58	-0.56	-0.39	-0.61
	2011	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Established business ownership rate	2010	0.11	-0.38	0.42	-0.13	0.38	0.17	0.55	0.35	-0.22	-0.17	0.18	-0.21	-0.09	0.10	0.07	0.05
	2011	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

TABLE A6. SHARE OF THE JUSTICE IN THE BUSINESS (IN %)

Country	Property			Business		
	NP	T	C	NP	T	C
Austria	100.00	100.00	100.00	60.00	60.00	100.00
Belgium	NA	NA	NA	75.00	94.44	100.00
Bulgaria	0.00	0.00	0.00	0.00	0.00	0.00
Cyprus	NA	NA	NA	NA	NA	NA
Czech Republic	25.00	4.00	0.03	10.00	33.33	1.04
Denmark	0.00	0.00	0.00	0.00	0.00	0.00
Estonia	66.67	94.44	50.45	33.33	50.00	36.44
Finland	0.00	0.00	0.00	0.00	0.00	0.00
France	0.00	0.00	0.00	0.00	0.00	0.00
Germany	NA	NA	NA	NA	NA	NA
Greece	NA	NA	NA	NA	NA	NA
Hungary	75.00	82.35	99.95	33.33	50.00	93.72
Ireland	20.00	3.33	0.19	0.00	0.00	0.00
Italy	0.00	0.00	0.00	0.00	0.00	0.00
Latvia	0.00	0.00	0.00	0.00	0.00	0.00
Lithuania	0.00	0.00	0.00	0.00	0.00	0.00
Luxembourg	0.00	0.00	0.00	0.00	0.00	0.00
Malta	NA	NA	NA	NA	NA	NA
Netherlands	80.00	80.00	100.00	40.00	33.33	100.00
Poland	66.67	94.67	3.04	33.33	37.50	87.78
Portugal	100.00	100.00	100.00	66.67	77.78	0.00
Romania	0.00	0.00	0.00	0.00	0.00	0.00
Slovakia	33.33	5.88	4.10	12.50	25.00	29.08
Slovenia	20.00	0.91	1.82	3.33	3.13	11.23
Spain	0.00	0.00	0.00	0.00	0.00	0.00
Sweden	0.00	0.00	0.00	0.00	0.00	0.00
UK-England and Wales	0.00	0.00	0.00	0.00	0.00	0.00
UK-Northern Ireland	NA	NA	NA	NA	NA	NA
UK-Scotland	NA	NA	NA	NA	NA	NA

Total correlation with GDP growth rate in 2011	0.00	0.13	-0.11	-0.04	0.00	0.14
Mean growth for countries with part = 0	2.36	2.36	2.36	2.23	2.23	1.96
Mean growth for countries with part > 0	2.19	2.19	2.19	2.31	2.31	2.74
Mean growth for countries with part = 0 or part = 100	2.13	2.13	2.06	2.23	2.23	1.97
Mean growth for countries with part > 0 or part < 100	2.55	2.55	2.74	2.31	2.31	3.08

TABLE A7. CORRELATIONS BETWEEN EFFICIENCY INDICATORS OF THE JUSTICE SYSTEM AND THE ECONOMY

Efficiency indicator	GDP growth rate		Per capita GDP growth rate		Investment		Private investment		Early-stage entrepreneurial activity		Established business ownership rate	
	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011
DT-Non criminal 2008	-0.21	-0.50	-0.26	-0.52	-0.34	-0.56	-0.09	NA	-0.27	NA	0.16	NA
DT-Non criminal 2010	-0.21	-0.50	-0.26	-0.49	-0.25	-0.50	-0.07	NA	-0.29	NA	0.09	NA
DT-CC total 2008	0.04	-0.22	-0.07	-0.31	0.06	-0.03	0.35	NA	-0.63	NA	-0.32	NA
DT-CC total 2010	-0.20	-0.55	-0.32	-0.56	0.16	-0.06	0.41	NA	-0.66	NA	-0.49	NA
DT-CC Lit 2008	-0.02	-0.39	-0.08	-0.45	-0.42	-0.59	0.10	NA	-0.34	NA	-0.13	NA
DT-CC Lit 2010	-0.02	-0.20	-0.06	-0.25	-0.30	-0.47	0.12	NA	-0.22	NA	-0.27	NA
DT-CC Nlit 2008	0.24	0.33	0.22	0.27	-0.01	0.10	-0.12	NA	-0.43	NA	0.25	NA
DT-CC Nlit 2010	0.22	-0.43	0.10	-0.49	0.09	-0.16	0.24	NA	-0.71	NA	0.02	NA
DT-ENF 2008	-0.31	-0.55	-0.32	-0.52	0.04	-0.22	0.11	NA	-0.27	NA	0.25	NA
DT-ENF 2010	-0.17	-0.66	-0.16	-0.64	-0.01	-0.22	0.04	NA	-0.23	NA	0.23	NA
DT-ADM 2008	-0.02	0.00	-0.08	-0.04	0.03	-0.08	0.18	NA	0.52	NA	-0.32	NA
DT-ADM 2010	-0.34	-0.49	-0.37	-0.48	-0.54	-0.72	-0.30	NA	-0.02	NA	0.73	NA
CR-Non criminal 2008	0.22	-0.01	0.05	-0.13	0.07	0.11	-0.25	NA	-0.20	NA	-0.35	NA
CR-Non criminal 2010	0.31	0.28	0.21	0.17	0.08	0.29	-0.16	NA	0.00	NA	-0.50	NA
CR-CC total 2008	0.37	-0.51	0.31	-0.46	0.08	-0.28	0.19	NA	-0.50	NA	-0.39	NA
CR-CC total 2010	0.28	0.09	0.30	0.06	-0.42	-0.38	-0.05	NA	-0.14	NA	0.01	NA
CR-CC Lit 2008	0.39	-0.20	0.19	-0.32	0.08	0.01	-0.16	NA	-0.48	NA	-0.31	NA
CR-CC Lit 2010	0.37	0.12	0.25	0.01	0.11	0.20	0.01	NA	-0.56	NA	-0.62	NA
CR-CC Nlit 2008	0.08	-0.79	-0.02	-0.82	0.09	-0.36	0.37	NA	-0.72	NA	-0.40	NA
CR-CC Nlit 2010	-0.03	0.38	0.05	0.39	-0.24	-0.06	-0.28	NA	0.31	NA	0.19	NA
CR-ENF 2008	0.07	-0.16	0.00	-0.21	-0.46	-0.42	-0.54	NA	0.39	NA	0.17	NA
CR-ENF 2010	0.47	0.37	0.49	0.37	0.19	0.28	0.15	NA	0.17	NA	-0.27	NA
CR-ADM 2008	0.33	0.24	0.41	0.33	-0.29	-0.21	-0.21	NA	-0.59	NA	-0.06	NA
CR-ADM 2010	0.13	0.02	0.10	0.02	0.36	0.38	0.40	NA	0.10	NA	-0.13	NA

DT : Disposition Time

CR : Clearance Rate

Non-criminal: other than criminal cases

CC total: total civil and commercial cases

CC Lit: Litigious civil and commercial cases

CC Nlit: Non-litigious civil and commercial cases

ENF: Enforcement cases

ADM: Administrative cases

TABLE A8. CORRELATIONS BETWEEN EFFICIENCY INDICATORS OF THE JUSTICE SYSTEM AND THEIR DETERMINANTS IN 2010

Determinants			Disposition Time						Clearance Rate					
Type	Variable		OTC	CC	CC Lit	CC Nlit	ENF	ADM	OTC	CC	CC Lit	CC Nlit	ENF	ADM
Caseload*	Incoming cases per 100 inhabitants		-0.37	-0.47	-0.14	-0.44	-0.15	-0.16	-0.04	0.09	-0.20	0.03	-0.21	0.25
	Pending cases per 100 inhabitants		0.45	0.68	0.57	0.05	0.65	0.48	-0.24	0.37	0.07	0.26	-0.22	-0.06

Financial resources	Courts budget in Euro / inhabitants	0.05	0.41	-0.01	0.57	0.28	-0.13	0.40	-0.12	0.51	-0.46	-0.31	0.40
	Courts budget as % of public expend.	0.00	0.14	0.08	0.08	0.17	-0.22	-0.19	-0.33	-0.19	-0.30	0.00	0.23
Human resources	Judges per 100,000 inhabitants	-0.28	-0.04	-0.25	0.11	-0.16	-0.27	0.34	-0.07	0.22	-0.15	0.14	0.43
	Judge-like agents per 100,000 inhabitants	-0.38	-0.35	-0.42	0.01	-0.48	-0.34	0.03	-0.02	0.08	-0.12	-0.09	0.38
	Judges-like agents and administrative personnel per 100,000 inhabitants	-0.30	-0.19	-0.21	0.19	-0.26	-0.22	0.03	-0.07	0.02	-0.10	-0.04	0.38
	Lawyers per 100,000 inhabitants	0.63	0.57	0.42	0.25	0.63	0.63	0.10	0.24	0.22	-0.17	-0.24	-0.41
	Lawyers / judges ratio	0.69	0.61	0.68	0.31	0.46	0.74	-0.18	0.18	0.02	-0.17	-0.25	-0.60
	1st instance professional judges salary/average gross annual salary ratio	-0.06	0.00	0.15	-0.05	-0.21	-0.01	-0.01	-0.08	-0.13	0.22	0.34	-0.41
Courts specialization and judicial geography	First instance courts of general jurisdiction per 100,000 inhabitants	0.28	0.46	-0.08	0.21	0.54	0.12	-0.25	-0.29	-0.16	-0.32	-0.24	0.24
	Specialised first instance courts per 100,000 inhabitants	0.44	0.33	0.23	0.01	0.51	0.12	-0.08	-0.29	0.02	-0.14	-0.23	0.04
	Total number of 1st instance courts per 100,000 inhabitants	0.41	0.45	0.07	0.13	0.58	0.15	-0.21	-0.31	-0.10	-0.25	-0.24	0.18
	% of specialised 1st instance courts	0.52	0.13	0.56	-0.16	0.38	0.45	0.07	0.01	0.06	0.08	-0.14	-0.43
	All the courts (geographic locations) per 100,000 inhabitants	0.32	0.27	0.01	0.11	0.57	0.15	-0.17	0.05	-0.16	-0.31	-0.21	0.21
	Judges per geographic location	-0.36	-0.27	-0.14	0.06	-0.51	-0.21	0.31	0.00	0.35	0.12	0.35	0.10
ICT	Computer facilities used for the direct assistance of judges and court clerks	-0.20	-	0.12	-	-	-0.50	0.28	-	0.36	-	-	0.14
	Systems for the registration and management of cases	-0.17	-0.08	-0.02	0.16	0.30	-0.47	0.39	0.28	0.44	0.38	0.15	0.28
	Electronic communication and information exchange between the courts and their environment	0.14	-0.20	0.20	-0.24	0.23	-0.05	-0.03	0.15	0.03	-0.12	-0.19	-0.11
	Overall ICT installed base	-0.02	-0.26	0.15	-0.21	0.38	-0.34	0.22	0.32	0.29	0.06	-0.14	0.08
Other	Nr non criminal cases granted with legal aid per 1000 inhabitants	-0.19	-0.06	-0.11	-0.13	-0.38	0.08	-0.35	-0.72	-0.61	-0.35	0.33	0.22
	Monitoring system of court activities	-0.34	-0.27	-0.38	-0.45	-0.26	-0.37	-0.41	-0.15	-0.45	0.44	0.23	0.29
	Simplified procedures for Civil cases (small disputes)	0.14	-	-	-	-	0.12	0.00	-	-	-	-	-0.20
	Simplified procedures for administrative cases	0.31	-0.09	-0.12	-0.35	0.45	0.08	-0.25	0.02	-0.18	0.14	-0.29	0.20
	Mediation and ADR	0.14	0.23	0.07	-0.08	0.27	-0.02	0.16	-0.12	0.06	0.03	0.09	0.01

* For the caseload, the incoming and pending cases correspond to the categories of cases used to compute the Disposition Time. For example, the correlation of -0.37 at the intersection of "Incoming cases per 100 inhabitants" and "Disposition Time OTC" is the correlation between the Disposition Time of other than criminal cases and the number of incoming other than criminal cases per 100 inhabitants.

"-" means that the correlation cannot be computed because one variable exhibits no variation.

ANNEX 2: SCOREBOARD DATA COMPARATIVE TABLES

Scoreboard Question	Q1	Q1	Q1	Q2	Q2	Q2	Q3	Q3	Q3	Q4	Q4	Q4	Q5
Country	Number of procedures for registering property	Time for registering property (days)	Cost of registering property (% of property value)	Number of procedures for starting a business	Time for starting a business (days)	Cost of starting a business (% of per capita GNI)	Time for resolving insolvency (years)	Cost of resolving insolvency (% of estate)	Recovery rate (%)	Number of total licenses required to operate	Time required to obtain all licenses (days)	Cost towards private and public sector to obtain all licenses (euro)	Calculated total 2010 annual approved budget allocated to all court with neither public prosecution nor legal aid included (euro)
Austria	3	21	4.6	8	28	5.9	1.1	18	73	2	53	501	497937600
Belgium	8	63	12.7	3	4	4.9	0.9	4	87	5	35	248	618847920
Bulgaria	8	15	3.9	4	19	1.1	3.3	9	31	11	49	376	112211184
Cyprus	6	42	8.7	6	9	12.3	1.5	15	71	7	61	313	33546827
Czech Republic	4	25	3.0	9	18	9.5	3.2	17	56	1	4	25	346497809
Denmark	3	16	0.6	4	7	0.0	1.0	4	87	6	38	215	216795693
Estonia	3	18	0.3	5	6	1.7	3.0	9	37	4	25	65	26797340
Finland	3	16	4.0	3	14	1.0	0.9	4	89	3	32	301	243066350
France	8	58	6.1	5	3	0.9	1.9	9	46	5	32	248	2573532693
Germany	5	57	5.1	9	11	4.3	1.2	8	54	3	58	453	5626310914
Greece	11	13	15.2	10	5	37.2	2.0	9	42	8	50	404	454066828
Hungary	4	17	5.0	4	18	2.9	2.0	15	39	8	43	185	259501133
Ireland	5	30	6.5	4	13	0.3	0.4	9	87	3	28	395	148722000
Italy	7	27	4.4	6	4	17.0	1.8	22	61	8	27	393	3051375987
Latvia	5	17	2.0	4	16	2.4	3.0	13	56	2	21	135	36919820
Lithuania	3	3	1.1	6	22	2.6	1.5	7	51	3	47	273	50567945
Luxembourg	8	28	10.0	6	19	1.8	2.0	15	44	5	44	253	48570247
Malta	NA	NA	NA	NA	NA	NA	NA	NA	NA	1	58	501	10260000
Netherlands	5	5	6.0	6	8	5.1	1.1	4	88	5	44	263	990667000
Poland	6	150	0.3	6	32	12.6	3.0	15	32	5	27	173	1365085000
Portugal	1	1	7.3	5	5	1.1	2.0	9	71	7	52	461	528943165
Romania	7	15	1.3	6	14	3.6	3.3	11	29	7	50	373	355246737
Slovakia	3	17	0.0	6	16	1.5	4.0	18	54	4	30	225	139851564
Slovenia	5	110	2.0	2	6	0.0	2.0	4	51	7	50	471	178158919
Spain	5	13	7.1	10	29	4.5	1.5	11	76	9	59	479	2854164974
Sweden	1	7	4.3	3	15	0.6	2.0	9	76	4	34	346	557260358
UK-England and Wales	6	26	5.7	6	12	0.7	1.0	6	89	3	15	276	1182000000
UK-Northern Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	83154000
UK-Scotland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	146420820
Not Available (or excluded) answers (%)	10%	10%	10%	10%	10%	10%	10%	10%	10%	7%	7%	7%	0%
Not Applicable answers (%)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
median	5	18	4.5	6	14	2.5	2.0	9	56	5	43	301	259501133
mean	5	31	4.9	6	14	5.2	1.9	11	61	5	39	309	784016580

Scoreboard Question	Q6	Q6 ³²²	Q6	Q6	Q6	Q6	Q6	Q7	Q7	Q7	Q7
Country	Total number of professional judges 2010 / population *100,000	Total number of Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, and Rechtspfleger per 100000 inhabitants / population *100,000	Total number of Professional judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category / population *100,000	Non-judge staff who are working in courts 2010 (number of) / population *100,000	Judges + administrative personnel (number of) / population *100,000	Lawyers (number of) / population *100,000	Enforcement agents (number of) / population *100,000	Total number of other than criminal incoming cases 2010 / population *100,000	Incoming first instance non-criminal cases/Professional judges sitting in courts full time (number of)	Incoming first instance non criminal cases/Professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category	Incoming first instance non-criminal cases/ (judges and administrative personnel) (number of)
Austria	17.8	26.8	26.8	55.3	73.1	89.5	4.3	42,925.4	2414.8	1601.6	587.1
Belgium	14.8	14.8	39.3	52.0	91.3	152.4	4.9	NA	NA	NA	NA
Bulgaria	29.8	29.8	29.8	79.7	109.5	160.6	5.1	5,361.3	179.6	179.6	49.0
Cyprus	12.9	12.9	12.9	57.5	70.5	298.3	21.0	3,804.9	294.3	294.3	54.0
Czech Republic	29.1	49.1	107.9	90.3	178.2	96.6	4.6	15,108.1	518.8	140.0	84.8
Denmark	9.0	14.0	Excluded	NA	NA	104.6	NA	49,415.7	5484.7	NA	NA
Estonia	16.7	21.7	21.7	72.8	89.5	58.8	3.6	5,660.7	338.7	260.7	63.2
Finland	18.0	18.0	86.6	42.5	129.1	35.2	13.7	7,245.7	402.8	83.7	56.1
France	10.7	11.6	55.9	32.5	88.4	79.6	5.0	3,528.8	330.4	63.1	39.9
Germany	24.3	34.6	NA	65.6	209.9	190.4	7.2	18,433.8	759.9	119.2	87.8
Greece	29.3	29.3	29.3	59.8	89.1	369.5	18.7	4,878.0	166.5	166.5	54.8
Hungary	29.0	34.9	78.7	77.2	150.1	121.2	1.8	6,836.8	236.2	86.8	45.6
Ireland	3.2	3.8	3.8	22.4	25.6	238.6	0.9	NA	NA	NA	NA
Italy	11.0	11.0	16.1	40.7	56.8	349.6	5.6	6,876.6	626.5	426.5	121.1
Latvia	21.2	21.2	21.6	71.8	93.4	61.0	5.2	5,815.2	274.7	269.0	62.2
Lithuania	23.6	23.6	23.6	76.7	100.4	51.2	3.6	9,177.2	388.2	388.2	91.5
Luxembourg	36.7	36.7	36.7	59.2	95.9	371.8	3.7	468.1	12.7	12.7	4.9
Malta	9.3	9.3	9.3	89.6	98.9	287.3	4.8	1,218.8	130.5	130.5	12.3
Netherlands	15.2	20.6	20.6	40.1	60.7	100.4	5.7	8,717.0	573.9	423.3	143.7
Poland	27.8	32.7	90.5	94.1	179.7	77.1	2.2	24,398.7	877.2	269.6	135.8
Portugal	18.4	18.4	18.4	62.3	80.7	259.4	6.6	5,540.0	301.3	301.3	68.6
Romania	19.0	19.0	19.0	39.6	58.6	96.2	2.4	8,170.7	429.1	429.1	139.4
Slovakia	24.9	39.8	39.8	82.2	107.1	83.6	5.6	11,157.7	448.9	280.2	104.2
Slovenia	49.9	71.2	71.2 ³²³	159.7	209.6	63.1	2.2	32,833.1	657.4	461.1	156.6
Spain	10.2	22.8	39.5	NA	NA	272.3	9.7	7,336.9	719.6	185.6	NA
Sweden	11.5	13.7	98.7	NA	NA	53.1	22.2	2,087.4	181.8	21.2	NA
UK-England and Wales	3.6	17.1	66.2	NA	NA	299.1	5.3	3,551.2	988.0	53.7	NA
UK-Northern Ireland	NA	NA	NA	NA	NA	33.6	0.9	NA	NA	NA	NA
UK-Scotland	3.5	5.4	12.8	28.7	41.6	205.5	0.5	3,197.9	902.7	249.3	77.0
Not Available (or excluded) answers (%)	3%	3%	7%	17%	17%	0%	3%	10%	10%	14%	24%
Not Applicable answers (%)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
median	17.9	20.9	29.6	61.1	92.4	104.6	5.0	6856.7	415.9	249.3	72.8
mean	18.9	23.7	41.4	64.7	103.7	160.7	6.3	11297.9	716.9	275.9	101.8

³²² Category non provided in the Country Fiches and not utilized to calculate the overall % of Not Available/Not applicable answers by Country

³²³ Does not include lay judges

Scoreboard Question	Q8	Q9-Q10	Q9-Q10	Q9-Q10	Q9-Q10	Q9-Q10	Q9-Q10	Q9-Q10	Q9-Q10
Country	Overall ICT installed base (indicator, ranging from 0 min to 4 max)	First instance DT for TOTAL (civil&commercial+administrative+ other cases) (in days)	First instance CR for TOTAL (civil&commercial+administrative+ other cases) %	First instance DT for Civil&com litig (in days)	First instance CR for Civil&com litig %	First instance DT for Civil&com nonlit (in days)	First instance CR for Civil&com nonlit %	First instance DT for Admin law (in days)	First instance CR for Admin law %
Austria	4	54.4	100.2%	128.6	100.1%	65.9	102.1%	NAP	NAP
Belgium	3	NA	NA	NA	NA	NA	NA	NA	NA
Bulgaria	3	67.0	99.0%	NA	NA	NA	NA	113.0	97.8%
Cyprus	2	545.2	84.2%	513.5	84.0%	NA	NA	1340.4	74.2%
Czech Republic	4	115.1	94.9%	127.7	103.3%	105.4	100.9%	NA	NA
Denmark	3	26.8	101.8%	186.2	101.9%	185.1	110.0%	NA	NA
Estonia	4	120.1	110.9%	214.9	97.6%	86.6	116.0%	146.4	91.2%
Finland	4	97.5	100.6%	258.6	93.2%	77.2	101.1%	237.7	98.9%
France	3	256.1	98.9%	278.8	98.4%	36.0	99.7%	338.1	106.7%
Germany	3	131.3	Excluded	183.8	100.3%	NA	NA	373.2	96.4%
Greece	1	509.5	79.1%	190.2	78.9%	NA	NA	2003.3	80.2%
Hungary	3	78.8	107.3%	160.1	101.7%	5.2	115.3%	201.7	95.6%
Ireland	3	NA	NA	NA	NA	NA	NA	NAP	NAP
Italy	3	395.1	108.9%	492.9	118.1%	161.8	97.4%	NA	NA
Latvia	4	138.8	96.0%	330.0	85.8%	18.5	102.5%	471.5	95.8%
Lithuania	4	43.3	106.5%	55.2	101.9%	NA	NA	159.8	83.5%
Luxembourg	3	158.9	165.3%	199.9	138.5%	NA	NA	172.5	93.2%
Malta	4	866.0	88.1%	848.6	88.7%	NA	NA	2757.8	28.6%
Netherlands	4	68.5	100.6%	NA	NA	NA	NA	159.4	106.7%
Poland	3	48.6	99.9%	180.5	95.0%	33.4	97.4%	121.1	94.5%
Portugal	4	1096.4	88.3%	417.3	101.9%	NA	NA	NA	NA
Romania	3	156.0	91.4%	216.6	89.8%	58.7	99.4%	268.8	70.6%
Slovakia	3	170.0	106.2%	364.1	97.7%	178.0	105.2%	66.4	102.1%
Slovenia	4	180.4	99.8%	430.6	97.8%	218.2	96.7%	205.0	122.7%
Spain	3	473.4	88.2%	289.1	93.6%	132.8	101.9%	433.2	102.3%
Sweden	3	184.8	93.3%	187.3	97.9%	144.2	101.5%	189.8	88.5%
UK-England and Wales	4	NA	NA	NA	NA	NA	NA	NA	NAP
UK-Northern Ireland	3	NA	NA	NA	NA	NA	NA	NA	NA
UK-Scotland	4	NA	64.7%	NA	NA	NA	NA	NA	NA
Not Available (or excluded) answers (%)	0%	17%	17%	24%	24%	48%	48%	28%	24%
Not Applicable answers (%)	0%	0%	0%	0%	0%	0%	0%	7%	10%
median	3,3	147.4	99%	215.7	98%	86.6	101%	205.0	96%
mean	3,3	249.3	99%	284.3	98%	100.5	103%	513.6	91%

Scoreboard Question	Q11	Q11	Q11	Q11	Q11	Q11	Q12	Q12	Q12	Q12
Country	Small claims DT (in days)	Small claim CR %	Small claims with the exclusion of order for payment procedure DT (in days)	Small claims with the exclusion of order for payment procedure CR %	Payment Order DT (in days)	Payment Order CR %	Average cost of a procedure of recognition of a judgment under the Brussels I Regulation (in euros)	Average percentage of decisions fully enforced*	Average percentage of decisions partially enforced*	Average percentage of decisions whose implementation has not been possible due to the failure of the debtor
Austria	NA	NA	NA	NA	59	101.7%	NA	NA	NA	NA
Belgium	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Bulgaria	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Cyprus	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Czech Republic	NAP	NAP	NAP	NAP	NA	103.7%	none	NA	NA	NA
Denmark	461	99.0%	NA	NA	NA	NA	NA	NA	NA	NA
Estonia	NA	NA	NA	NA	83	123.8%	63.91	NA	NA	NA
Finland	NA	NA	NA	NA	NAP	NAP	NA	NA	NA	NA
France	NA	93.5%	NA	NA	NA	NA	NA	NA	NA	NA
Germany	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Greece	NA	NA	NA	NA	NA	NA	400-500	45-50	NA	0.5
Hungary	NA	NA	NA	NA	2	115.9%	1% of value max. 1,000	40-60	0.2	NA
Ireland	NA	99.8%	NA	99.8%	NA	VA	NA	NA	NA	NA
Italy	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Latvia	NAP	NAP	NAP	NAP	18	102.6%	NA	NA	NA	NA
Lithuania	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Luxembourg	NA	NA	NA	NA	NA	NA	around 100	NA	NA	NA
Malta	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Netherlands	NAP	NAP	NAP	NAP	NAP	NAP	NA	NA	NA	NA
Poland	147	80.6%	147	80.6%	19	97.0%	NA	NA	NA	NA
Portugal	NA	NA	310	113.2%	77	101.1%	NA	NA	NA	NA
Romania	NA	NA	NA	NA	NA	NA	1% of the debt max. 1,000	40-65	0.2	NAP
Slovakia	NA	NA	NA	NA	143	10.4%	NA	NA	NA	NA
Slovenia	396	94.8%	NAP	NAP	47	111.1%	NA	NA	NA	NA
Spain	266	94.9%	NAP	NAP	19	95.0%	NA	NA	NA	NA
Sweden	100	99.5%	NA	NA	NA	100.6%	NA	NA	NA	NA
UK-England and Wales	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
UK-Northern Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
UK-Scotland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Not Available (or excluded) answers (%)	72%	66%	76%	72%	62%	52%	79%	90%	93%	93%
Not Applicable answers (%)	10%	10%	17%	17%	7%	7%	0%	0%	0%	3%
median	265.6	95%	228.3	100%	47.2	102%	-	-	-	-
mean	273.8	95%	228.3	98%	52.1	97%	-	-	-	-

Scoreboard Question	Q13-Q14	Q13-Q14	Q13-Q14	Q13-Q14	Q15	Q15	Q16	Q17	Q17	Q17
Country	Total number of 2010 mediation incoming cases (number of cases)	Total number of 2010 mediation resolved cases (number of cases)	Total number of 2010 cases settled through mediation (number of cases)	Total number of 2010 mediation cases average length (days)	Enforcement procedure - First Instance DT (in days)	Enforcement procedure - First Instance CR (%)	Average length of enforcement proceedings in civil or commercial matter (in months)	Average percentage of decisions fully enforced**	Average percentage of decisions partially enforced**	Average percentage of decisions whose enforcement has not been possible due to the failure of the debtor
Austria	NA	NA	NA	NA	89.8	99.4%	NA	NA	NA	NA
Belgium	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Bulgaria	NA	NA	NA	NA	NA	NA	24	25	NA	30-50
Cyprus	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Czech Republic	NA	NA	NA	NA	17.0	100.0%	NA	15-20	NA	NA
Denmark	NA	NA	NA	NA	88.2	102.3%	NA	NA	NA	NA
Estonia	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Finland	NA	NA	NA	NA	121.1	100.0%	NA	NA	NA	NA
France	NA	NA	NA	NA	102.5	96.5%	NA	NA	NA	NA
Germany	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Greece	NA	NA	NA	NA	NA	NA	10	less than 10	less than 5-7	NA
Hungary	NA	NA	NA	NA	112.1	96.5%	4-5	40-60	20	NA
Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Italy	NA	NA	NA	NA	413.0	93.7%	NA	NA	NA	NA
Latvia	NA	NA	NA	NA	NAP	NAP	NA	NA	NA	NA
Lithuania	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Luxembourg	NA	NA	NA	NA	NA	NA	around 4	NA	NA	NA
Malta	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Netherlands	NA	NA	NA	NA	NAP	NAP	NA	NA	NA	NA
Poland	NA	NA	NA	NA	42.9	97.3%	more than 6	NA	NA	NA
Portugal	NA	NA	NA	NA	2185.0	72.7%	NA	NA	NA	NA
Romania	NA	NA	NA	NA	36.6	98.0%	3-5	40-65	25	NA
Slovakia	NA	NA	NA	NA	550.6	423.7%	NA	NA	NA	NA
Slovenia	NA	NA	NA	NA	324.3	102.8%	NA	NA	NA	NA
Spain	NA	NA	NA	NA	1242.4	65.3%	NA	NA	NA	NA
Sweden	NA	NA	NA	NA	NAP	NAP	NA	NA	NA	NA
UK-England and Wales	NA	NA	NA	NA	NA	NA	maximum 12	22.5	20.7	NA
UK-Northern Ireland	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
UK-Scotland	NA	NA	NA	NA	NAP	NAP	NA	NA	NA	NA
Not Available (or excluded) answers (%)	100%	100%	100%	100%	41%	41%	76%	79%	86%	97%
Not Applicable answers (%)	0%	0%	0%	0%	14%	14%	0%	0%	0%	0%
median	-	-	-	-	112.1	98.0%	-	-	-	-
mean	-	-	-	-	409.7	119.1%	-	-	-	-

Scoreboard Question	Q18	Q18	Q18	Q18	Q19	Q19	Not Available (or excluded) answers by Country (%)	Not Applicable answers by Country (%)
Country	Costs of service of document according to Regulation 1393/2007 (data from the European Judicial Atlas in Civil Matters) (in euros)	Number of judicial or extrajudicial documents from another Member State of the European Union served in accordance with Regulation (EC) No 1393/2007 (uihj data)	Number of judicial or extrajudicial documents transmitted to be served in another EU member State in accordance with Regulation (EC) No 1393/2007 (uihj data)	Average length (in weeks) to serve a document coming from another EU country in accordance with Regulation (EC) No 1393/2007 (uihj data)	Employment dismissal cases - First Instance DT (in days)	Employment dismissal cases - First Instance CR (%)		
Austria	NA	NA	NA	NA	NA	NA	38%	3%
Belgium	135	NA	NA	NA	NA	NA	64%	0%
Bulgaria	no costs	NA	NA	1	158	99.9%	40%	0%
Cyprus	NA	NA	NA	NA	605	98.8%	45%	0%
Czech Republic	no costs	NA	NA	NA	NA	NA	31%	7%
Denmark	NA	NA	NA	NA	NA	NA	52%	0%
Estonia	no costs/23/13	NA for 2010, 133 in 2009	NA for 2010, 119 in 2009	NA	248	104.7%	31%	0%
Finland	NA	NA	NA	NA	290	96.3%	34%	3%
France	NA	NA	NA	NA	NA	92.6%	38%	0%
Germany	NA	NA	NA	NA	NA	NA	50%	0%
Greece	no costs	2,500-3,500	3,500-4,000	2-3	NA	NA	31%	0%
Hungary	no costs	small amount	small amount	4	246	94.2%	17%	0%
Ireland	NA	NA	NA	NA	NA	NA	57%	3%
Italy	NA	NA	NA	NA	NA	NA	45%	0%
Latvia	NA	NA	NA	NA	133	125.3%	28%	10%
Lithuania	NA	NA	NA	NA	129	118.1%	45%	0%
Luxembourg	138	NA	NA	1	NA	NA	41%	0%
Malta	NA	NA	NA	NA	NA	NA	64%	0%
Netherlands	NA	NA	NA	NA	NA	100.5%	36%	14%
Poland	no costs	NA	NA	NA	176	97.4%	24%	0%
Portugal	NA	NA	NA	NA	400	91.8%	38%	0%
Romania	no costs	NA	NA	NA	317	80.4%	24%	2%
Slovakia	NA	NA	NA	NA	NA	NA	38%	0%
Slovenia	NA	NA	NA	NA	212	114.5%	28%	3%
Spain	NA	NA	NA	NA	101	94.1%	33%	3%
Sweden	NA	NA	NA	NA	NA	NA	41%	3%
UK-England and Wales	no costs	NA	NA	NA	NAP	NAP	52%	5%
UK-Northern Ireland	NA	NA	NA	NA	NA	NA	93%	0%
UK-Scotland	£83.80 (personal service) + £39.20 (postal service)	NA	NA	around 1	NAP	NAP	67%	7%
Not Available (or excluded) answers (%)	62%	90%	90%	83%	52%	45%	-	-
Not Applicable answers (%)	0%	0%	0%	0%	7%	7%	-	-
median	-	-	-	-	229.2	98%	38%	0%
mean	-	-	-	-	251.3	101%	42%	2%

ANNEX 3: ADDITIONAL COMPARISON TABLES

Table 3A. Performance and quality indicators for a proper functioning of courts

States/entities	Incoming cases	Length of proceedings (timeframes)	Closed cases	Pending cases and backlogs	Productivity of judges and court staff	Percentage of cases cs that are processed by a single sitting judge	Enforcement of penal decisions	Satisfaction of court staff	Satisfaction of users	Judicial quality and organisational quality of the courts	Costs of the judicial procedures	Other	Performance and quality indicators per state/entity
Austria													4
Bulgaria													8
Cyprus													4
Czech Republic													4
Denmark													4
Estonia													7
Finland													4
France													4
Germany													4
Greece													4
Hungary													4
Ireland													5
Italy													4
Latvia													6
Lithuania													4
Netherlands													4
Poland													4
Portugal													4
Romania													4
Slovakia													4
Slovenia													4
Spain													5
Sweden													4
UK-England and Wales													4
UK-Northern Ireland													4
UK-Scotland													4
TOTAL	18	22	20	22	12	3	3	2	6	3	2	2	European average: 4.42

Table 3B. Number of states or entities applying the modalities of monitoring systems

States/entities	Annual activity report	Monitoring of the number of incoming cases	Monitoring of the number of decisions	Monitoring number of postponed cases	Monitoring length of proceedings (timeframes)	Monitoring of the other elements	Modalities of monitoring systems per state/entity
Austria							6
Belgium							5
Bulgaria							5
Cyprus							4
Czech Republic							4
Denmark							6
Estonia							6
Finland							5
France							6
Germany							5
Greece							4
Hungary							6
Ireland							3
Italy							5
Latvia							6
Lithuania							6
Luxembourg							3
Malta							4
Netherlands							5
Poland							6
Portugal							5
Romania							6
Slovakia							6
Slovenia							5
Spain							6
Sweden							4
UK-England and Wales							5
UK-Northern Ireland							6
UK-Scotland							5
TOTAL	25	29	29	25	26	14	European average: 5.10

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Strasbourg, 15 January 2013

The functioning of judicial systems and the situation of the economy in the European Union Member States

PART 3: ANNEXES

Report
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Report prepared for
the European Commission (Directorate General Justice)

ANNEX 1: METHODOLOGICAL NOTE FOR THE COUNTRY FICHES

1. General presentation

This methodological note describes the working principles and the methodological choices that led to this exercise in order to achieve the drafting of this report on the functioning of judicial systems and the situation of the economy in the European Union member States³²⁴.

In order to conduct this study, the European Commission approached the CEPEJ (European Commission for the Efficiency of Justice), with its strong experience in evaluating the judicial systems of Council of Europe member States, carried out every two years since 2004. This exercise is based on a "scheme for evaluating judicial systems", a questionnaire that the national correspondents of the CEPEJ (often established within ministries of justice) are to complete and whose replies are statistically processed and analysed by the CEPEJ³²⁵. To be able to carry out this evaluation, a precise methodology has been developed, but also a relationship of trust between the member States providing data on the one hand, the CEPEJ and the Secretariat who process the data on the other hand. The result is a comparable and consistent database from one cycle to another. Such governmental work especially involves a permanent dialogue and a total transparency within the member States of the Council of Europe participating in the evaluation exercise.

It was clear that in agreeing to prepare such a report on the evaluation of the impact of the effectiveness of legal systems on the economy in the member States of the European Union, the CEPEJ would apply this methodology. As with the general exercise of evaluating judicial systems mentioned above, the CEPEJ needed to use some of the data collected but also to request its national correspondents' viewpoints for more specific issues such as those of an economic nature. This is why, in this study, validation of certain data was requested from member States.

For this report, the European Commission gave the CEPEJ a scoreboard and technical specifications for the two parts of the report: country-fiches and comparative analysis. Following the meetings in Brussels between the CEPEJ experts and representatives of DG Justice of the European Commission³²⁶ and the exchange of emails following these meetings, it became clear that the structure of the scoreboard was to be taken strictly within the framework of country-fiches of the report and not to serve merely as a guiding principle. It is therefore the requirements of the scoreboard that have guided some of the choices made by the experts. They have also taken into account the desire of the European Commission to obtain data and analyses on other than criminal matters and in particular civil and commercial matters.

This report was based mainly on a selection of replies provided by national correspondents in the framework of the CEPEJ's main evaluation cycle. The principal exercise covered data from 2010, and it was agreed to use that reference year for all the judicial data collected in the context of this report. The database of the CEPEJ was stabilised during the summer as regards this study, and completed on 23 July 2012.

³²⁴ The study was conducted in 27 countries including the United Kingdom for which the results are presented separately for England and Wales, Scotland and Northern Ireland.

³²⁵ The evaluation grid, individual responses of each state / entity and the 2010-2012 edition report to be released September 20, 2012 can be found on the CEPEJ website.

http://www.coe.int/t/dghl/cooperation/CEPEJ/default_EN.asp?

³²⁶ Three meetings were held in Brussels (29 February 2012, 7 June 2012 and July 2, 2012) for the experts to present the progress of work. Different structures for the country profiles have been submitted to the European Commission, changes recommended, and the structure proposed in the study ultimately validated.

The CEPEJ's database being unable to answer to all the questions in the scoreboard, it was decided to collect additional data through further questionnaires. From a methodological point of view and with a commitment to quality, consistency and comparability of the data supplied in the framework of the present report, the data gathering is primarily assigned to the national correspondents of the CEPEJ.

When they were not able to provide these data, it was decided to submit the data collected from other bodies for validation. This was particularly the case concerning "business-friendliness", which was not within the jurisdiction of the national correspondents and was therefore collected from the "Doing Business" database of the World Bank and validated (or refuted) by the CEPEJ correspondents. This was also the case with other data which, given their specificity, could not be collected seriously by the national correspondents in the time allowed them. Specific questionnaires were then sent to other entities (UIHJ, association on mediation, representatives concerning mediation, contacts from addresses available on the e-portal justice, Eurochambres, etc.).

The answers provided by those bodies do not necessarily meet the requirements of reliability, comparability and quality of the CEPEJ; they receive a specific mention in the report. For some issues on the scoreboard, no data could be provided. This does not mean that none were available, but that no data meeting the quality requirements adopted by the CEPEJ were available or that no data meeting these requirements could be collected within the deadline set.

- For additional questionnaires prepared by the experts and national correspondents sent to the CEPEJ with a methodological note³²⁷:

- o considering the specific procedures "Doing business" for each state / entity, a "tailor-made" questionnaire specific to each state or entity was prepared;

- o similarly, these questionnaires for each state / entity were written in French or English depending on the respondent state / entity;

- o of the 29 questionnaires sent, 23 states / entities responded. Germany, Belgium, Greece, Malta, Northern Ireland and Scotland have not responded;

- The questionnaire prepared by the experts in collaboration with the International Union of Judicial Officers (UIHJ) was sent through the UIHJ's own correspondents³²⁸.

11 states / entities responded (England and Wales, Belgium, Bulgaria, Scotland, Estonia, Greece, Luxembourg, Hungary, Poland, Czech Republic, Romania);

- a questionnaire prepared by the experts was sent to members of GEMME (European Association of Magistrates for Mediation)³²⁹.

5 states responded (Hungary, Portugal, Latvia, Bulgaria, Romania);

- A number of questions were also sent to stakeholders identified in the e-Justice portal³³⁰. Out of the 58 e-mails, 7 answers (or simple explanatory exchanges) were received;

- Finally, some specific questions were put to the CCBE (Council of Bars and Law Societies of Europe), to Eurochambres or certain services of the European Commission (including questions relating to mediation or part of the business-friendliness scoreboard)³³¹.

The low response rate, especially for specific questionnaires, is accentuated by the fact that many replies indicate NA (not available) or NAP (not applicable).

As was stated at the outset by the CEPEJ and the experts, the main difficulty of the exercise was the timeframe, in so far as it is based on extensive collation of data from all member States. On the one

³²⁷ See Appendices 4.1. to 4.4.

³²⁸ See Appendix 4.5.1.

³²⁹ See Appendix 4.5.2.

³³⁰ See Appendix 4.5.3.

³³¹ See Appendices 4.5.4. to 4.5.7.

hand, the collection of data needed for this report coincided in time with the data collection for the general CEPEJ exercise. Experts were obliged to wait for the general validation of data during the summer of 2012, and could not just have their initial working data stabilised and cleared. This nevertheless allowed the experts to incorporate into this report the latest data provided by the member States using the methodological process of the CEPEJ. On the other hand, given the methodology of the CEPEJ, the collection of additional data to those collected for the main exercise by the national correspondents proved problematic partly because national correspondents were focused on the CEPEJ's main evaluation exercise. Many correspondents (but also some interlocutors contacted for issues regarding alternatives to prosecution) said they could provide some answers, but not within the deadline.

After these general considerations, the methodology of the country profiles followed by comparative analysis is outlined below.

2. Country-fiches

2.1. Business-friendliness

2.1.1. Starting a business and registering property

We rely here mainly on World Bank Doing Business procedures³³².

Since 2002, the World Bank has collected data on several dimensions of doing business. The methodology, inspired by academic research³³³, is the following: to study one dimension, for example starting a business, a notional scenario is drawn up and submitted to experts who have to list the steps necessary to start a business, and the associated time and cost³³⁴.

Here, according to the scoreboard, we concentrate on two dimensions of business: starting a business and registering property.

For each of these two dimensions, we submitted the complete procedures to the CEPEJ National Correspondents. It aimed to 1) verify the data provided by World Bank (are the steps, the time and the costs correct?) 2) distinguish steps in the ambit of the justice administration from other steps in order to assess the weight of justice in the procedure as a whole 3) obtain additional information for each step (for example, are the steps possible through Internet?). We submitted the procedures as they were on the World Bank Doing Business website in February 2012. Most of these procedures are from 2011.

Of 29 entities, 23 have returned the questionnaire with replies. 6 entities have not co-operated: Belgium, Germany, Greece, Malta, UK-Northern Ireland³³⁵ and UK-Scotland. Of the 23 remaining countries, questions related to starting a business and registering property have been answered by 19 countries and 3 countries provided a contact (Cyprus, Denmark and United Kingdom-England & Wales). We finally obtained replies from these contacts for 2 countries regarding starting a business (Cyprus and United Kingdom-England & Wales) and for 1 country about registering property (United Kingdom-England & Wales).

The National Correspondents who sent back a completed questionnaire had a total of 226 steps to check, with a time and a cost for each (that is 678 pieces of information in all). Regarding the time and cost, the Doing Business information is correct in 53.8% of cases and wrong in 7.1% of cases. In the remaining cases (38.1%), the National Correspondents gave no reply and we cannot tell whether or not the Doing Business information is correct. Excluding these cases, the Doing Business information is correct in 88.4% of cases and wrong in 11.6%.

VALIDATION OF TIME AND COST

		YES	NO	DON'T KNOW	Total
Registering property	Time	58	6	38	124
	Cost	46	9	45	124
Starting a business	Time	71	6	47	102
	Cost	68	11	47	102
Total	Time	129	12	85	226
	Cost	114	20	92	226

³³² <http://www.doingbusiness.org>. For a critical view, see Haravon (2009) and Levratto (2009).

³³³ For example, for starting a business, the research paper supporting the methodology is Djankov et al. (2002).

³³⁴ Many more details can be found at <http://www.doingbusiness.org/methodology/starting-a-business> and <http://www.doingbusiness.org/methodology/registering-property>

³³⁵ We should point out that for this country, we chose not to send a questionnaire because the reply to the CEPEJ Evaluation Scheme was still pending when the additional questionnaires were circulated.

Furthermore, they were able in 100% of cases to say whether or not each step was in the ambit of the justice system.

Finally, they were able in 57.1% of cases to say whether or not each step was possible via Internet.

This quite good quality of data prompted our decision to include in our analyses the non-validated Doing Business data for the 6 countries which did not reply to our questionnaire. We can indeed consider that if Doing Business data are correct in nearly 90% of cases for the 23 countries which returned a completed questionnaire, they are, by the law of large numbers, correct in nearly 90% of cases for these 6 remaining countries. It is important to include these countries, because it enlarges the sample for the comparative part by about 25%. But this increase is potential only, because Doing Business does not provide data for three entities: Malta, United Kingdom–Northern Ireland and United Kingdom–Scotland. We therefore have three additional countries in the sample: Belgium, Germany and Greece. For the latter country, we have to note that a lot of reforms are on-going, which casts doubt on the validity of Doing Business data. In a similar vein, we have to recall once again that the data for Belgium and Germany have not been validated by our National Correspondents.

The time provided by World Bank has been re-computed with the following hypotheses:

- When two (or more) steps can be performed simultaneously, we consider the time only once. For example, if step A takes 1 day, step B takes 1 day and if steps A and B can be done simultaneously, then the aggregate time is 1 day.
- When World Bank provide an interval (for example, “2-4 weeks”), we took the mean time (here, 3 weeks).
- We count 7 days for 1 week and 30 days for 1 month.
- When “up to X days” is stated, we count the mean between 0 and X days.
- When an expedited procedure is possible, we register the time linked to this procedure.

These new computations lead to some differences with the figures provided by World Bank. For example, for starting a business in Bulgaria, we obtain 19 days instead of 18, 9 days in Cyprus instead of 8, 7 days in Denmark instead of 6, etc. All in all, the figures were corrected for 7 countries regarding starting a business and 6 countries regarding registering property. To ensure that our computations were nevertheless consistent with World Bank ones, we calculated the (Pearson) correlation coefficient between both series and obtained a coefficient roughly equal to 1 (for both starting a business and registering property).

The cost stated by the World Bank has also been re-computed with several hypotheses. For example, when two costs were available due to different speeds, we selected the one corresponding to the fastest procedure.

Still regarding the cost, the Doing Business methodology is quite a black box. The cost associated with each step is expressed in national currency units, but the total cost is expressed as a percentage of the 2010 Gross National Income per capita in US\$. It is virtually impossible, from the Doing Business website, to reconstruct the total cost from the cost of each step (and vice versa). The key information missing is the exchange rate used by the World Bank. Our option for this point was that when the cost of each step had been validated, it was converted into US\$ with the exchange rate on 2012/01/01 provided by the website www.gocurrency.com. The total was then expressed as a percentage of the 2010 Gross National Income per capita in US\$ provided by the World Bank. To ensure that our computations were consistent with World Bank ones, we calculated the (Pearson) correlation coefficient between both series and obtained a coefficient roughly equal to 1 for starting a business and 0.99 for registering property.

Besides these subjective measures provided by the World Bank, we gathered objective figures from justice authorities.

Through the CEPEJ Evaluation Scheme, countries were asked to provide "numbers of other than criminal law cases" for land registry cases. These numbers, taken at different points of time, allow time statistics such as Disposition Time to be computed.

According to the replies to the Evaluation Schemes, data are not available for 8+2 countries³³⁶. 13 countries stated "NAP" meaning in most cases that land registry does not rest with the justice administration (usually, rather with the economic administrations). For the 6 remaining countries, figures were obtained.

The same question was asked for business registry cases. Data are available for 4 countries and unavailable for 11+1. The question was inapplicable for 12+1 countries.

Unfortunately, the CEPEJ Evaluation Scheme does not distinguish between non-litigious and litigious cases. Of course, what is important for a potential entrepreneur is to know the time needed to register and in this case, only non-litigious cases are relevant. We have therefore asked our National Correspondents to itemise their figures and if possible to split them to obtain non-litigious and litigious figures. We obtained the following:

	Land registry	Business registry
Data	6	6*
Not available	5	8
Not applicable	7	5
No answer at all	5	4
No reply to the questionnaire	4+2	4+2

*For 2 countries, data are too incomplete and do not allow computation of time statistics.

Close examination of the replies to this question reveals an apparent inconsistency between replies to this question and replies to the question on World Bank procedures. Some countries have indeed replied "Not applicable" to the question about business and/or land registry and indicated in the same reply that justice is concerned in starting a business and/or registering property. In the same way, some countries have provided data for the question about business or land registry while indicating that justice is not concerned in starting a business and/or registering property. In fact, it seems that some countries have disregarded the justice character of the question about business and land registry. They have simply reported data from the business and land registry, whether or not they are in the justice department. These data should therefore be taken literally: cases related to business and land registry possibly without any judicial dimension.

Note that starting a business and registering property, the two dimensions chosen by the Commission in the scoreboard, are only two dimensions of doing business among others. The World Bank considers, for example, 8 other dimensions: obtaining credit, paying taxes, etc. Other dimensions could be interesting to explore. For example, Djankov et al. (2003) have developed a methodology similar to the World Bank for collecting a bounced cheque. Another example is the private body "Credit Reform" which provides figures for "Payment conduct of customers", that is the length of time which companies in Europe have to wait before their bills are paid³³⁷.

An additional source exists for starting a business. Since 2002, the DG Enterprise and Industry of the European Commission has run the program "Start-up procedures" for small and medium-sized enterprises³³⁸. Member States have to validate a procedure to start a business, namely

³³⁶ "8+2" means "8 countries and 2 entities".

³³⁷ http://www.creditreform.com/portal/en/content/press/info_downloads/index.jsp

³³⁸ http://ec.europa.eu/enterprise/policies/sme/business-environment/start-up-procedures/index_en.htm

create a private limited company. They have also to provide the necessary time and cost³³⁹. We have nevertheless chosen to disregard it. When selecting the source for the data to be validated by our National Correspondents, we chose the World Bank because these data are widely used by scholars (see for example Djankov et al., 2010). This is not (yet) the case for the European Commission data³⁴⁰. Moreover, the European Commission does not display the detailed procedure to start the business in question. It was therefore impossible to identify justice steps and to access their weight in the procedure as a whole³⁴¹.

2.1.2. Insolvency and Bankruptcy

We provide three kinds of data here.

The first one, on which we rely more, consists of data collected from our National Correspondents. We ask them to provide data on incoming cases, resolved cases and pending cases (at both the beginning and end of the period) for insolvency and bankruptcy cases. We settled for this generic expression because definitions vary dramatically among countries and in some of them, the boundary between the two is somewhat unclear. For example, in France, the two words are synonymous even if “insolvency” corresponds to an accounting assessment and “bankruptcy” is the name of the procedure that follows this assessment. Due to these problems, we chose not to show these data in the country-fiches. Here are nevertheless the data which have been collected:

Country	Pending cases on 1 Jan'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10
Austria	12231	27070	27215	12086
Belgium	NA	NA	NA	NA
Bulgaria	NA	NA	NA	NA
Cyprus	NA	NA	NA	NA
Czech Republic	10054	16393	8788	17659
Denmark	9563	23666	22070	10091
Estonia	NA	NA	NA	NA
Finland	2407	3866	3891	2382
France	NA	NA	NA	NA
Germany	NA	NA	NA	NA
Greece	NA	NA	NA	NA
Hungary	36	192	174	54
Ireland	451	29	6	474
Italy	87209	10971	12556	85624
Latvia	3560	3118	1960	4718
Lithuania	3149	3770	2829	4090
Luxembourg	NA	NA	NA	NA
Malta	NA	NA	NA	NA
Netherlands	NA	31182	30465	NA
Poland	3502	8672	8685	3489

³³⁹ For further details, see the Commission staff working document SEC(2007) 129. We may note that the cost, expressed in Euro, should be expressed in a relative way, for example, in percentage of per capita GDP. Indeed, the cost in Hungary represents 4.0% of the Hungarian per capita GDP and the cost in France represents 0.6% of the French per capita GDP.

³⁴⁰ Note that the European Commission itself uses World Bank data (see for example European Commission, 2012).

³⁴¹ For the same reason, we disregarded data from OECD Product Market Regulation Indicators database. These data were collected through a questionnaire circulated to OECD member states. The same four questions were asked regarding corporations and one-owner firms: 1) How many mandatory procedures would an entrepreneur have to complete to register a public limited company (pre-registration+registration)? 2) How many different public and private bodies would an entrepreneur need to contact to register a public limited company (pre-registration+registration)? 3) How many working days would it typically take an entrepreneur registering a public limited company to complete all mandatory procedures (pre-registration+registration)? 4) How much would it typically cost an entrepreneur registering a public limited company to complete all mandatory procedures (pre-registration+registration)?

Portugal	2368	9220	8876	2712
Romania	37392	38175	33629	41938
Slovakia	205	1459	1551	130
Slovenia	1365	2036	899	2502
Spain	NA	NA	NA	NA
Sweden	10484	11451	11275	10660
UK-England and Wales	NA	NA	NA	NA
UK-Northern Ireland	NA	NA	NA	NA
UK-Scotland	NA	NA	NA	NA

The second kind of data is from World Bank Doing Business. The methodology used by the World Bank here is the same as for starting a business or registering property: a notional scenario is submitted to experts who have to provide three pieces of information: time, cost and recovery rate³⁴². We can also note that, unlike starting a business or registering property, the steps of the procedure are not specified. Finally, these subjective data have not been validated by our National Correspondents and should thus be viewed with caution.

The third kind of data is from two widely-used private sources (for example in the European Commission's "Business Dynamics" report³⁴³): Euler-Hermes³⁴⁴ and Credit-Reform³⁴⁵. These two sources were contacted to provide additional data regarding objective time and cost of procedures, but they failed to do so because these data were not available³⁴⁶. In the table, figures from these two sources could exhibit some inconsistency due to differences in definition (notably because of the status of private or individual insolvency).

We were also unable to obtain a synoptic document which would list as bullet points the main steps of the insolvency and bankruptcy procedure in each EU27 country (which World Bank Doing Business does for most dimensions of business)³⁴⁷.

2.1.3. Licences

To our knowledge, the only data available are those collected by the European Commission for the report "Business Dynamics" published in 2011³⁴⁸.

The methodology is the following: 5 notional companies are submitted to experts (and not member states) who have to provide the number of licences necessary to operate, the time required to obtain all licenses, and the cost of obtaining all licenses. For both time and cost, intervals were suggested to experts.

For the time, experts were asked to choose an interval from the following (in days): 0-7, 8-15, 16-22, 23-30, 31-45, 46-60, over 60. We have taken the median point of each interval. For the last interval, we registered 61.

For the cost, experts were asked to choose an interval from the following (in euro): 0-50, 51-100, 101-200, 201-300, 301-400, 401-500, over 501 (!). We have taken the mean point of each interval. For the last interval, we registered 501.

³⁴² Many more details can be found at <http://www.doingbusiness.org/methodology/resolving-insolvency>

³⁴³ http://ec.europa.eu/enterprise/policies/sme/business-environment/files/business_dynamics_final_report_en.pdf

³⁴⁴ <http://www.eulerhermes.com>

³⁴⁵ <http://www.creditreform.co.uk>

³⁴⁶ We were equally unsuccessful in contacting specialised scholars (such as Régis Blazy, from the University of Strasbourg) or other sources such as Eurochambress (<http://www.Eurochambress.eu>) or UIHJ (<http://www.UIHJ.com>).

³⁴⁷ Nevertheless, an interesting overview can be found at http://ec.europa.eu/civiljustice/bankruptcy/bankruptcy_gen_en.htm. We also benefited from fruitful discussions with Jérôme Carriat (European Commission, DG Justice) for which we wish to thank him here.

³⁴⁸ We wish to thank Mariana Ghitoi and Inigo Urresti (from European Commission, DG Enterprise and Industry) for assisting with this part.

Note that the survey distinguished the cost towards private sector and the cost towards public sector. For simplicity's sake, we have aggregated them to obtain a total cost.

We have computed the mean number of licences, time and cost for the five notional companies. We can use the mean here and not the median because the upper limit for both time and cost is the same for all the countries (respectively 61 and 501). It implies that we cannot have extremely high values which could hedge the mean.

Regarding licences, we also report 2008 data (latest data available) from the OECD "Regulatory Indicators Questionnaire" which was used to build the Product Market Regulation Indicators database³⁴⁹. Member states were asked to answer "yes" or "no" to three questions regarding the licences and permits system:

- 1) Is the "silence is consent" rule (i.e. that licenses are issued automatically if the licensing office has not acted by the end of the statutory response period) used at all?
- 2) Are there single contact points ("one-stop shops") for obtaining information on notifications and licenses?
- 3) Are there single contact points ("one-stop shops") for issuing or accepting notifications and licenses?

An index is built by assigning a 0 to a "yes" and a 2 to a "no". The index therefore ranges from 0 to 6. Among the EU27 countries, 21 were invited to participate in this programme³⁵⁰. The reported mean (1.62) refers to these 21 countries. The licences and permits system can be considered "good" if the index is equal to 0 and "bad" if the index is equal to 4 (since no country exhibits a 6 index).

Figures collected for the "Business Dynamics" report and through the OECD "Regulatory Indicators Questionnaire" have not been validated by CEPEJ National Correspondents and therefore analyses drawn from them should be viewed with caution.

2.1.4. Additional information

To close this methodological note on business-friendliness, we wish to indicate some useful elements for reading the tables.

The following table summarises the units of each business-friendliness indicators:

Dimension of business	Indicator	Unit
Registering property	Number of procedures	Procedures
	Time	Days
	Cost	% of property value (equal to 50 times the per capita GNI)
Starting a business	Number of procedures	Procedures
	Time	Days
	Cost	% of per capita GNI
Resolving insolvency and bankruptcy	Time	Years
	Cost	% of estate (equal to 100 times the per capita GNI)
	Recovery rate	%
Obtaining licences	Number	Licences
	Time	Days
	Cost	Euro

GNI is the Gross National Income. Here are the figures used by the World Bank (in US\$, in 2011)³⁵¹:

Country	Per capita GNI
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³⁴⁹ <http://www.oecd.org/eco/pmr>

³⁵⁰ Bulgaria, Cyprus, Latvia, Lithuania, Malta and Romania are missing.

³⁵¹ <http://www.doingbusiness.org>

Austria	46710
Belgium	45420
Bulgaria	6240
Cyprus	28237
Czech Republic	17870
Denmark	58980
Estonia	14360
Finland	47170
France	42390
Germany	43330
Greece	27240
Hungary	12990
Ireland	40990
Italy	35090
Latvia	11620
Lithuania	11400
Luxembourg	79510
Malta	NA
Netherlands	49720
Poland	12420
Portugal	21860
Romania	7840
Slovakia	16220
Slovenia	23860
Spain	31650
Sweden	49930
UK-England and Wales	38540
UK-Northern Ireland	NA
UK-Scotland	NA

In the tables, we record “EU27 mean”. It does not necessarily mean that the mean is computed on 27 countries. The mean is computed according to the sample we have. It could be 27 but sometimes less due to lack of data for some countries. For example, for registering property, we have gathered subjective data for 22 countries. The EU27 mean is therefore the average figure for these 22 countries.

The EU27 mean for the share of justice reported is computed as the mean of the shares of justice for the countries we have in our sample. It means that we have computed the share for each country and after computed the mean of these shares. We mention this because, due to a high number of 0%, the figures in the tables could appear inconsistent. For example, the mean of the total number of property registration procedures is 5 and the mean number of justice procedures is 1. The share should therefore be 20%. Because 12 countries have a 0 share, we nevertheless record a mean of 27%.

As mentioned earlier, our national correspondents have not necessarily provided an answer to the question about the feasibility of some steps via Internet. When we indicate in the tables the percentage of steps possible through Internet, the denominator is the number of steps for which we have a positive or negative validation. For example, if in a country the total number of steps is 10 and the number of steps possible through Internet is 5, the number of steps not possible through Internet is 2 and we have no answer for the 3 remaining steps, the share is therefore 71% ($5/2+5$).

The Disposition Time is computed as the ratio of the number of pending cases at the end of the period to the number of resolved cases during the period multiplied by 365 (see further details below).

In some countries where the total cost of starting a business and/or registering property is 0, the relative cost of justice cannot be computed and is set at 0.

In the insolvency and bankruptcy part and in the licences part, we have data for the entire UK without being able to distinguish between British entities.

Finally, in some tables, we put "NA" ("Not Available") when unable to provide any figure. This NA is used for simplicity's sake and may mean several things: the data do not exist, the data were impossible to obtain in the time left to the National Correspondent, the country has not sent back a questionnaire, or the question was inapplicable to the country.

2.2. Resources of justice and framework of courts

The Commission wanted its scoreboard data for many of the issues, as far as possible, to be presented in terms of judicial sectors (civil, commercial, tax and labour). Given the time frame of this study and in agreement with the Commission, the study includes other classifications: criminal cases in the domain / business area not coming under criminal cases, contentious cases / non-contentious cases, civil cases / commercial cases / enforcement cases / administrative cases.

For the purpose of this report, "Civil cases are heard in general as cases involving private parties, including in particular family cases, commercial, and relating to labour law."

Question 5 of the scoreboard

The annual approved budget allocated to the functioning of all courts covers the functioning of the courts (without the public prosecution services and without legal aid), whatever the source of this budget. The figures presented are the figures for the approved budget, e.g. the budget that has been formally approved by the Parliament (or another competent public authority), but not the one actually executed. For the EU member States whose total annual approved budget allocated to all courts cannot be separated from the figures for the public prosecution department (Austria, Belgium, France, Germany, Greece, Luxembourg, Spain), the answer to question 5 of the Scoreboard provides the total figure. The country-fiches of these EU member States include a note explaining the situation. At the same time, for the sections of analysis and strengths and shortcomings of the systems of these EU member States, the total annual approved budget allocated to all courts has been calculated on the basis of the EU27 average ratio between the sum of courts and public prosecution, and the courts budget, which is 72%).

Where appropriate, the annual approved budget allocated to the functioning of all courts includes the budget both at national level and at the level of regional or federal entities.

Question 6 of the scoreboard

The category "Professional Judges sitting in courts full time " includes only judges working full time.

The category "Professional Judges sitting in courts full time, professional judges sitting in courts on occasional basis, non-professional judges, and Rechtspfleger for countries which have such category" includes professional judges under the previous category plus the so-called Rechtspfleger/court clerks, who have the authority to deliver decisions and/or judgements on their own and non professional judges, which, according to CEPEJ definition, may include lay judges.

According to the comments provided by the National Respondents, lay judges should be included at least in:

- Czech Republic (data not separated from other eventual non-professional judges category number),
- Denmark (non professional judges are lay judges, number of lay judges included in judgelike category in Q6, judgelike category excluded for comparative purposes)
- Germany (data not separated from other eventual non-professional judges category number-category on non),
- Finland (non professional judges are lay judges),
- France (data not separated from other eventual non-professional judges category number)
- Hungary (non professional judges are lay judges),
- Latvia (non professional judges are lay judges),
- Slovenia, (non professional judges are lay judges, number of lay judges included in judgelike category in Q6, lay judges are excluded from judge-like category for comparative purposes).

Question 7 of the scoreboard

Data on the workload of courts at a disaggregated level are not available. Furthermore, available data on incoming and resolved cases are collected per case action not per court level. Caseload in terms of incoming and resolved therefore cannot be calculated by comparing incoming and resolved cases with the number of judges and administrative staff available at each court level. What can be done is to take the number of incoming cases at first instance, considering it as the actual number of cases which the court system needs to deal with, or system caseload (appeals do not introduce new cases but merely imply that cases need further processing after the work already done), and dividing it by the number of judges and administrative staff that the court system employ to deal with it. In particular, three caseload indicators are calculated, incoming non-criminal cases at first instance per professional judge sitting in courts full-time; incoming non-criminal cases at first instance in 2010 per judge-like agents (this includes professional judges sitting in courts full-time, professional judges sitting in courts on occasional basis, non-professional judges (it may include lay judges), and Rechtspfleger for countries which have such a category); and incoming non-criminal cases at first instance in 2010 per judge-like and administrative agent.

The number of incoming and resolved cases at an aggregated level is provided in the country-fiches Annex "Country statistics", where they are available per instance, per main categories of other than criminal cases and for 2006, 2008 and 2010. The number of judges and administrative staff is available in the answer to the question 6 of the scoreboard.

Question 8 of the scoreboard

This reply is based on data on % of availability of ICT tools collected through the CEPEJ Evaluation Scheme with additional information for countries that provided additional useful data in Questions 6, 7, 8 and 9 of the National Correspondent questionnaire.

2.3. Use and accessibility of justice

In this section, a number of indicators are used to provide an answer to the Scoreboard questions. Here are the main definitions required to interpret the information provided.

Clearance Rate, Case Turnover Ratio and Disposition Time

These indicators are calculated in accordance with European Uniform Guidelines for Monitoring of Judicial Timeframes – EUGMONT.

The Clearance Rate, expressed as a percentage, is obtained when the number of resolved cases is divided by the number of incoming cases and the result is multiplied by 100:

$$\text{Clearance Rate (\%)} = \frac{\text{Number of resolved cases}}{\text{Number of incoming cases}} \times 100$$

A Clearance Rate close to 100% indicates the ability of the court or of a judicial system to resolve more or less as many cases as the number of incoming cases within the given time period. A Clearance Rate above 100% indicates the ability of the system to resolve more cases than received, thus reducing any potential backlog. Finally, if the number of incoming cases is higher than the number of resolved cases, the Clearance Rate will fall below 100%. When a Clearance Rate goes below 100%, the number of unresolved cases at the end of a reporting period (backlog) will rise.

Essentially, a Clearance Rate shows how the court or judicial system is coping with the inflow of cases.

Apart from the Clearance Rate indicator, a case turnover ratio and a Disposition Time indicator provide further insight into how a judicial system manages its flow of cases. Generally, a case turnover ratio and Disposition Time compare the number of resolved cases during the observed period and the number of unresolved cases at the end of observed period. The ratios measure how quickly the judicial system (or a court) turns over received cases – that is, how long it takes for a type of case to be resolved.

The relationship between the number of cases that are resolved during an observed period and the number of unresolved cases at the end of the period can be expressed in two ways. The first measures the proportion of resolved cases from the same category within the remaining backlog. The case turnover ratio is calculated as follows:

$$\text{Case Turnover Ratio} = \frac{\text{Number of resolved Cases}}{\text{Number of Unresolved Cases at the end}}$$

The second possibility, which relies on the first data, determines the number of days necessary for a pending case to be solved in court. This prospective indicator, which is of direct interest for the users, is an indicator of timeframe, more precisely of Disposition Time, which is calculated by dividing 365 days in a year by the case turnover ratio as follows:

$$\text{Disposition Time} = \frac{365}{\text{Case Turnover Ratio}} = 365 \times \frac{\text{Number of Unresolved Cases at the end}}{\text{Number of Resolved cases}}$$

The translation of the result into days simplifies understanding of what this relationship entails. For example, a lengthening of judicial Disposition Time from 57 days to 72 days is much easier to grasp than a decline in case turnover ratio from 6.4 to 5.1. This conversion into days also makes it more relevant to compare a judicial system's turnover with the projected overall length of proceedings or established standards for the duration of proceedings.

Here are some additional definitions from the CEPEJ “Compendium of ‘best practices’ on time management of judicial proceedings” glossary which have been followed in this document:

Backlog – number of cases that exceed the “allowed duration” This term is frequently used as a synonym of delay and it can be quite ambiguous. The establishment of timeframes makes it possible to adopt a more precise definition of backlog, as the number or percentage of cases not decided within an established timeframe (or time standard).

Caseload – it is the number of cases that a court has to deal with in a period of time. It is expressed by the sum of pending cases plus incoming cases in a certain period of time.

Pending cases – it is the number of cases that still have to be dealt with by the court in a period of time. It may be expressed in numbers (e.g. pending cases by January 1) or in a percentage (e.g. percentage of cases pending for more than 3 years).

Resolved cases include all the procedures which have come to an end at the level considered (first instance or appeal) during the year, either through a judgment or through any other decision which ended the procedure (provisional decisions or decisions regarding the proceeding should not be counted here).

Timeframe – a period of time during which an action occurs or will occur. Timeframes are targets to be used as inter-organisational means to pursue the timeliness of court proceedings.

Time limit – a limit of time within which something must be done. In judicial proceedings, this term indicate mainly the limits established by procedural rules. These limits can be mandatory and have consequences in a specific proceeding (e.g. the prohibition of presenting evidence after a specific time) or simply intimation without consequence (as when a judge should write a sentence within a week after the decision but nothing happens if the provision is not fulfilled). On the contrary, timeframes should not be specified by procedural rules. They are just inter-organisational goals with consequences at this level.

Time standard – time required to complete a task. The time allowed carrying out a production task in a standard costing system. It may be expressed as the standard time allowed or alternatively, when expressed in standard hours, as the output achieved. In an organisational perspective, a time standard is more rigid and more focused on single activities than timeframes. However, it is extensively adopted by Anglo-Saxon literature with a meaning similar to timeframe. Therefore, it is possible to use time standard and timeframe as synonyms.

Workload – it may be defined as the whole of the work handled by a court, while the caseload only refers to the number of cases handled by a court.

Question 10 of the scoreboard

Clearance Rate is calculated on the basis of the above-mentioned formula:

$$\text{Clearance Rate (\%)} = \frac{\text{Number of resolved cases}}{\text{Number of incoming cases}} \times 100$$

using data collected through the CEPEJ Evaluation Scheme.

Pending cases are cases which have not been completed within a given period. *Resolved cases* include all the procedures which have come to an end at the level considered (first instance or appeal) during the year, either through a judgment or through any other decision which ended the

procedure (provisional decisions or decisions regarding the proceeding should not be counted here).

Question 11 of the scoreboard

Simplified Procedure data collected concerns Small claims, Small claims with the exclusion of Payment Orders and Payment Orders.

A problem in comparing data is the “impressive diversity in the definition of small claim - apparently a simple concept-”.³⁵² Simple comparison of the monetary values of small claims in 2010 provided by the respondent states EU member States to the CEPEJ Evaluation Scheme shows a variation from a minimum of 74€ in Lithuania to a maximum of 15,000€ in Portugal.

Data on 2010 civil and commercial cases at first instance (aggregate, litigious, non-litigious) are provided to allow a comparison.

Questions 12, 16 and 17 of the scoreboard

UIHJ data (see below)

About enforcement: In non-criminal matters, the Committee of Ministers of the Council of Europe has adopted two relevant Recommendations in the area of enforcement. Enforcement is defined in Recommendation Rec(2003)17 on enforcement as “*the putting into effect of judicial decisions, and also other judicial or non-judicial enforceable titles in compliance with the law which compels the defendant to do, to refrain from doing or to pay what has been adjudged*”. This Recommendation is primarily oriented towards the civil law area, whilst Recommendation Rec(2003)16 is focused on the execution of judicial decisions in administrative matters.

It is difficult to assess the smooth execution of court decisions in civil or commercial matters on the basis of relevant statistics, as execution is not automatic: it is up to the parties who have won the case to decide, where appropriate, whether to request or not the execution of the court decision. Therefore, this report does not focus on the rate of execution of court decisions, but mainly on the organisation of the execution and the role of enforcement agents.

In Recommendation Rec(2003)17, the tasks and duties of the enforcement agents are described, as well as the enforcement procedure and the rights and duties of the claimant and the defendant. The enforcement agent is defined in this Recommendation as “*a person authorised by the state to carry out the enforcement process irrespective of whether that person is employed by the state or not*”. This definition is used for the purposes of this report. This definition includes the fact that enforcement agents can be public officials (i.e. judges) or private officers (i.e. bailiffs). Moreover, both statuses may coexist within a state or entity (mixed system).

The enforcement of sentences in criminal matters is of a different nature. It concerns the state authority, often under the supervision of the judge and depends on the choices of criminal policies.

Questions 13 and 14 of the scoreboard

Mediation: this is a voluntary, non-binding private dispute resolution process in which a neutral and independent person assists the parties in facilitating the discussion between the parties in order to help them resolve their difficulties and reach an agreement. It exists in civil, administrative and criminal matters.

Judicial mediation: in this type of mediation, there is always the intervention of a judge or a public prosecutor who facilitates, advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediate a case between an offender and a victim (for example to establish a compensation agreement).

³⁵² CEPEJ-SATURN (2011: 4).

Conciliation: the conciliator's main goal is to conciliate, usually by seeking concessions. She/he can suggest to the parties proposals for the settlement of a dispute. Compared to a mediator, a conciliator has more power and is more proactive.

Arbitration: parties select an impartial third party, known as an arbitrator, whose (final) decision is binding. Parties can present evidence and testimonies before the arbitrators. Sometimes there are several arbitrators selected who work as a court. Arbitration is most commonly used for the resolution of commercial disputes as it offers higher confidentiality.

Court annexed mediation: this is a particular kind of mediation, based on the American model of mediation and which takes place in a court-annexed place. The mediation may be conducted by private mediators or by judges and court employees specially trained and accredited.

Private mediators: for example lawyers who are accredited mediators or psychologists with a mediation specialisation.

Question 15 of the scoreboard

Data and analysis are based on the replies provided by EU member States to Question 91 of the CEPEJ Evaluation Scheme (2010-2012 cycle).

Question 18 of the scoreboard

UIHJ data were supplemented by data available in July 2012 on the website of the European Judicial Atlas.

Question 19 of the scoreboard

Employment dismissal cases: cases concerning the termination of (an) employment (contract) at the initiative of the employer (working in the private sector). It does not include dismissals of public officials, following a disciplinary procedure for instance.

2.4. Additional descriptive information

Courts structure

A *court with general jurisdiction* is a court which deals with all the issues which are not attributed to specialised courts owing to the nature of the case.

Not regarded here as specialised courts are, for instance:

- chambers responsible for "family cases" or "administrative law cases" that are under the authority of the same court with general jurisdiction,
- a Supreme Court or a High Court dealing with all types of cases; they belong to the ordinary organisation of the judiciary.

2.5. Analysis

The analysis paragraph focuses on two components of the justice system: resources and efficiency. The main indicators of the resources allocated to the court systems and their efficiency are matched with the average and median values calculated on the basis of the available data from the 29 judicial systems of the 27 European Union member States (EU27).

For countries where the total annual approved budget allocated to all courts cannot be separated from the figures for public prosecution, this value has been calculated on the basis of the EU27 average ratio between the sum of the two and the courts budget, 72%). The budget is also

provided in € per inhabitant, and as % of the general government expenditure (based on 2010 Eurostat data.).

Where human resources are concerned, full-time professional judges per 100,000 inhabitants, judges (this number includes full-time professional judges, professional judges sitting in courts on an occasional basis, non-professional judges (it may include lay judges), and Rechtspfleger for countries which have such a category) per 100,000 inhabitants, number of staff (judges and non-judicial staff) working in the court system per 100,000 inhabitants, number of lawyers per 100,000 inhabitants and the ratio of lawyers to full-time professional judges are provided.

The number of incoming cases at first instance provides an indicator of the caseload a justice system and its courts need to cope with (second and highest instance cases do not correspond to new incoming cases but to first instance cases which need to be processed further as they have not been definitively resolved). Given the focus of this work, the most relevant indicators are the total number of other than criminal cases and litigious civil and commercial cases.

The section on efficiency of the system focuses on Disposition Time and Clearance Rate. The 2010 Disposition Time (the number of days necessary for a pending case to be solved in court in 2010) for the total number of other than criminal cases and litigious civil and commercial cases are provided is obtained by comparing them with the average and median values calculated on the basis of the data available from the judicial systems of the 27 European Union member States (EU27), but also with the values for the previous years (2008 and 2006). 2010 Clearance Rate is also provided, in order to determine whether the courts are keeping up with the incoming caseload, if the situation is improving or deteriorating.

2.6. Strengths and shortcomings of the system

To make an overall assessment for the *Business-friendliness*, we have fitted countries into 3 categories. The boundaries of these categories have been determined by using an objective rule based on the mean and the standard deviation. The standard deviation indicates how much variation exists from the mean. We can say roughly that is “the mean gap from the mean”. The formula which permits to compute the standard deviation is:

$$s = \sqrt{\frac{1}{n} \sum_{i=1}^n (a_i - \bar{a}_i)^2}$$

More precisely, the first category includes countries which are below the mean minus one standard deviation; the second, countries which are between the mean minus one standard deviation and the mean plus one standard deviation; the third, countries which are above the mean plus one standard deviation. We have assessed countries according to this rule for each of the four dimensions of business considered here (registering property, starting a business, insolvency and bankruptcy and licences) and for the three characteristics of these dimensions (number of procedures, time and cost³⁵³). Since most of the characteristics point in the same direction³⁵⁴, we have adopted the following colour code: green for category 1, yellow for category 2 and red for category 3.

³⁵³ With an exception for insolvency and bankruptcy, for which we do not have the number of procedures and for which we do have the recovery rate.

³⁵⁴ A small number of steps is better, a short time is better, a low cost is better except for the recovery rate which is better when higher. Of course, the rule and the categories are adapted to this.

To make the assessment regarding the benchmarks provided by the European Commission, we adopted the following methodology. For the time necessary for starting a business, the country respects the objective if the time is below or equal to 3 days. It is quite close if starting a business requires up to one week (7 days). Finally, it is far if the time is above 7 days. For the time necessary for obtaining licences, the country respects the objective if the time is below or equal to 30 days. It is quite close if obtaining licences requires less than 40 days. Finally, it is far if the time is above or equal to 40 days.

We have to remark that for the time of insolvency and bankruptcy procedures, this categorisation may appear specious since a longer time is not necessarily bad, especially if the firm is saved in the end. Depending on the case, a protracted procedure which ends in continuation of business may be better than a short procedure which ends in the death of the firm.

For the overall assessment, we disregarded the share of justice in business because it was too rash to answer some simple questions such as: “is strong influence of the justice administration good or bad for business?” Moreover, there were some problems of comparison when in some countries the justice administration carries no weight because for these countries, the cost of justice is by definition 0. Some elements are nevertheless delivered in the comparative part.

For the *Resources of the Justice System*, attention is paid to how far they are above or below the mean for the 29 judicial systems considered. Also in this case, three categories are used. The first category includes judiciaries which are within one standard deviation from the mean; the second, judiciaries which are between one and two times the standard deviation from the mean; the third, judiciaries which are over the mean plus twice the standard deviation or below the mean minus twice the standard deviation. The same colour code as for the business-friendliness is used: green for category 1, yellow for category 2 and red for category 3.

For the *Efficiency of the Justice System*, four categories are used. The first category (colour code dark green) includes cases in which the Disposition Time is below half the mean for EU judiciaries in 2010 or the Clearance Rate is above 105%. The second category (colour code light green) includes cases in which the Disposition Time is between half the mean and the mean of EU judiciaries in 2010 or the Clearance Rate is between 95% and 105%. The third category (colour code yellow) includes cases in which the Disposition Time is between the mean and the mean plus one standard deviation of EU judiciaries in 2010 or the Clearance Rate is between 95% and 90%. The fourth (colour code red) includes cases in which the Disposition Time is above the mean plus one standard deviation of EU judiciaries in 2010 or the Clearance Rate is between below 90%.

2.7. Recommendations

In making some recommendations, our intent is for the countries to take stock of any shortcomings, investigate them more thoroughly and take action wherever needed. This is why in most cases only countries which fall into a “red category” have a recommendation. In some cases, we nevertheless make a recommendation for countries at the mean level (yellow category) because the figures for business-friendliness categories of these countries are close to the upper limit and could therefore put the countries in the red category in future. Finally, the recommendation is usually to achieve an objective close to the mean. Once again, it may be preferable to try to approach the best countries’ figures, but we consider that the mean constitutes a first good and reasonable aim, at least in the short term.

It was also very difficult to make recommendations for some categories such as for example the possibility of using Internet (see above) or the Disposition Time (few data).

ANNEX 2: METHODOLOGICAL NOTE FOR COMPARATIVE ANALYSIS

Note: some methodological issues for the comparative part of the report have already been tackled in the country-fiches methodological section above. In this part, we deal only with methodological issues specific to the comparative part.

Normalisation

From a series $A = \{a_1, \dots, a_n\}$ ranging from $\text{Min}\{A\}$ to $\text{Max}\{A\}$, we want to obtain a series $A' = \{a'_1, \dots, a'_n\}$ ranging from 1 to 0. We have two transformations to carry out: (1) scaling all elements of the series between 0 and 1 and (2) replacing $\text{Min}\{A\}$ by 1 and $\text{Max}\{A\}$ by 0. These transformations are often used when the series A is a ranking with lowest values being better values (as in the case of this report). In order to do so, each element of the series a_i has to be replaced by

$$a'_i = -\frac{a_i - \text{Max}\{A\}}{\text{Max}\{A\} - \text{Min}\{A\}}.$$

Country labels

Country name	Country label
Austria	AUT
Belgium	BEL
Bulgaria	BGR
Cyprus	CYP
Czech Republic	CZE
Denmark	DNK
Estonia	EST
Finland	FIN
France	FRA
Germany	DEU
Greece	GRC
Hungary	HUN
Ireland	IRL
Italy	ITA
Latvia	LVA
Lithuania	LTA
Luxembourg	LUX
Malta	MLT
Netherlands	NLD
Poland	POL
Portugal	PRT
Romania	ROU
Slovakia	SVK
Slovenia	SVN

Spain	ESP
Sweden	SWE
UK-England and Wales	UK-ENGWAL
UK-Northern Ireland	UK-NIR
UK-Scotland	UK-SCO

Correlation

To make our assessments, we use the Pearson's correlation coefficient. The coefficient of correlation between two series A and B is obtained by:

$$r_{AB} = \frac{\sum_{i=1}^n (a_i - \bar{a})(b_i - \bar{b})}{\sqrt{\sum_{i=1}^n (a_i - \bar{a})^2 \sum_{i=1}^n (b_i - \bar{b})^2}}$$

Where n is the number of elements in the series. This coefficient ranges from -1 to +1 (or from -100% to +100% if expressed in percentage). The closer to 1 in absolute value the coefficient is, better the correlation. If the correlation lies between 0 and +1, it is called "positive". It means that there is a positive link between the two series. If the correlation is between -1 and 0, it is said to be "negative". It means that there is a negative link between the two series. It is important to note, however, that a correlation other than zero is not necessary significant from a statistical point of view. In order to tell whether a correlation is statistically significant, a test needs to be applied. The most widely used is a Student test. It aims to test the hypothesis (called "the null hypothesis") that the correlation is nil ($|r_{AB}| = 0$). A Student statistic is computed:

$$t^{observed} = \frac{|r_{AB}|}{\sqrt{\frac{1 - r_{AB}^2}{n - 2}}}$$

Where n is the number of elements in the series. This statistic is then compared to a critical value given by a statistical table (the Student table). If the statistic computed is larger than the critical value, the null hypothesis is rejected and the correlation is significantly different from 0. If the statistic computed is lower than the critical value, the null hypothesis cannot be rejected and the correlation is statistically equal to 0. To read the table, two elements have to be considered: the number of degrees of freedom and the level of confidence. The number of degrees of freedom for the test above is $n-2$. The level of confidence is equal to $1 - \alpha$ where α is the first type error. It measures the risk (i.e. the probability) of being wrong in rejecting the null hypothesis. Generally, three thresholds are set for α : 10%, 5% and 1%, 5% being the standard level. Of course, the lower α is the better. To give two examples, with $n = 27$ the correlation has to be equal to 0.33 (in absolute value) to be significantly different in statistical terms from 0 at 10%, and 0.39 (in absolute value) to be significantly different in statistical terms from 0 at 5%.

The correlation is transposed on the figures with the trend or regression line which indicates the strength of the link between the two series (the steeper the slope, the stronger the link). The trend or regression line gives the general pattern of the data. It is the result of sophisticated computations which are beyond the scope of this report. Basically, statistical techniques are used to determine the line which fits the data best. The line is the "best" in the sense that the distance between each point and the line is lowest as possible.

ICT indicators

ICT indicators have been calculated on the basis of data from specific ICT categories collected through questions 62, 63 and 64 of CEPEJ Evaluation Scheme (2010-20-12 cycle). % of availability of specific ICT categories has been converted to a value ranging between 0 and 4 on the following pattern:

0%	0
less than 10%	1
less than 50%	2
more than 50%	3
100%	4

Computer facilities used for the direct assistance of judges and court registrars is the average of Word processing, Electronic database of jurisprudence, E-mail and Internet connection categories values

Systems for the registration and management of cases is the average of the values for categories Case tracking system, Court management information system and Financial information system.

Electronic communication and information exchange between the courts and their environment is the average the values for categories Electronic Web forms, court websites, possibility of following up cases online, accessibility of electronic registers, Applications for electronic processing of small claims, electronic processing of undisputed debt recovery, electronic submission of claims and Video conferencing technologies.

Overall ICT installed base is the average of the previous three indicators.

Court activities monitoring system indicator

The court activities monitoring system indicator is calculated on the basis of data on specific classes of monitoring systems collected through question 68 of CEPEJ Evaluation Scheme (2010-20-12 cycle). Ranging between 0 minimum and 1 maximum, it is based on the availability of regular monitoring systems for the following categories: Number of incoming cases, Number of decisions delivered, Number of postponed cases, Length of proceedings (timeframes) and Other court activities. For each category a value of 1 is awarded if the system is present, 0 if it is not. The indicator is calculated as the average of the categories included.

Mediation and ADR indicator

The Mediation and ADR indicator is calculated on the basis of data on specific categories of monitoring systems collected through questions 163 and 168 of CEPEJ Evaluation Scheme (2010-20-12 cycle). Ranging between 0 minimum and 1 maximum, it is based on the availability of Judicial mediation procedures, non-judicial Mediation procedures, Arbitration and Conciliation. For each category a value of 1 is awarded if the system is present, 0 if it is not. The indicator is calculated as the average of the categories included.

ANNEX 3 : NATIONAL CORRESPONDANT

QUESTIONNAIRE – ENGLISH (AUSTRIA)

1. If possible, please specify from the annual approved public budget allocated to the functioning of all courts, in € (Evaluation Scheme Q6) the part allocated to the criminal procedures and the other than criminal judicial procedure. If data is not available, please indicate NA.

	Total
Total public budget allocated to the functioning of all courts (1+2)	
1. Public budget allocated to the functioning of all courts for criminal procedures	/ NA
2. Public budget allocated to the functioning of all courts for other than criminal judicial procedures	/ NA

1.2. If possible, please specify from the annual approved public budget allocated to the whole justice system, in € (Evaluation Scheme Q10) the part allocated to the criminal procedures and the other than criminal judicial procedure. If data is not available, please indicate NA.

	Total
Total annual approved public budget allocated to the whole justice system (1+2)	
1. Annual approved public budget allocated to the whole justice system for criminal matters	/ NA
2. Annual approved public budget allocated to the whole justice system for other-than	/ NA

criminal matters	
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2. Can you specify the denomination and number of general jurisdiction courts (Evaluation Scheme Q42) which act as first, second and highest instance? If an instance includes more than one type of court (i.e. First instance courts include Courts of limited jurisdiction, offices of the justice of the peace, other...) please indicate for each type of court its name and number

First instance courts

-
-
-

Second instance courts

-
-
-

Highest instance court

-

Please provide any useful comment for interpreting the data above:

3 If possible, please specify the number of professional judges sitting in courts on an occasional basis and who are paid as such in courts of first instance, second instance and highest instance (if possible on 31 December 2010). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. (Evaluation Scheme Q48)

(Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts)

	Gross figure	Full time equivalent	
Total number of professional judges sitting in courts on an occasional basis (1 + 2 + 3)	/ NA	/ NA	NAP
1. Number of first instance professional judges sitting in courts on an occasional basis	/ NA	/ NA	NAP
2. Number of second instance (court of appeal) professional judges sitting in courts on an occasional basis	/ NA	/ NA	NAP
3. Number of supreme	/ NA	/ NA	NAP

court professional judges sitting in courts on an occasional basis			
--	--	--	--

Please provide any useful comment for interpreting the data above:

4. If possible, please specify the number of non-professional judges sitting in courts of first instance, second instance and highest instance (if possible on 31 December 2010). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. (Evaluation Scheme Q49)

(Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts)

	Total	
Total number of non-professional judges (1 + 2 + 3)		
1. Number of first instance non-professional judges	<input type="text"/> / NA	<input type="text"/> NAP
2. Number of second instance (court of appeal) non-professional judges	<input type="text"/> / NA	<input type="text"/> NAP
3. Number of supreme court non-professional judges	<input type="text"/> / NA	<input type="text"/> NAP

Please provide any useful comment for interpreting the data above:

5. Number of non-judge staff that are working in first instance courts (if possible on 31 December 2010) (this data should not include the staff working for public prosecutors) (Evaluation Scheme Q52)

(Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts)

Total non-judge staff working in first instance courts / NA / NAP

If possible, specify:

1. **Rechtspfleger** (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal / NA / NAP
2. **Non-judge staff whose task is to assist the judges** (case file preparation, assistance during the hearing, court recording, helping to draft the decisions) such as registrars / NA / NAP
3. **Staff in charge of different administrative tasks and of the management of the courts** (human resources management, material and equipment management, including computer systems, financial / NA / NAP

and budgetary management, training management)

4. Technical staff

/ ☐ NA / ☐ NAP

5. Other non-judge staff

/ ☐ NA / ☐ NAP

If "other non-judge staff", please specify:

Please provide any useful comment for interpreting the data above:

Number of non-judge staff that are working in second instance courts (if possible on 31 December 2010) (this data should not include the staff working for public prosecutors) (Evaluation Scheme Q52)

(Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts)

Total non-judge staff working in second instance courts / ☐ NA / ☐ NAP

If possible, specify :

1. **Rechtspfleger** (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal / ☐ NA / ☐ NAP

2. **Non-judge staff whose task is to assist the judges** (case file preparation, assistance during the hearing, court recording, helping to draft the decisions) such as registrars / ☐ NA / ☐ NAP

3. **Staff in charge of different administrative tasks and of the management of the courts** (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management) / ☐ NA / ☐ NAP

4. Technical staff / ☐ NA / ☐ NAP

5. Other non-judge staff / ☐ NA / ☐ NAP

If "other non-judge staff", please specify:

Please provide any useful comment for interpreting the data above:

Number of non-judge staff that are working in Highest instance courts (if possible on 31 December 2010) (this data should not include the staff working for public prosecutors) (Evaluation Scheme Q52)

(Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts)

Total non-judge staff working in Highest instance courts / ☐ NA / ☐ NAP

If possible, specify:

1. **Rechtspfleger** (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal / ☐ NA / ☐ NAP

2. **Non-judge staff whose task is to assist the** / ☐ NA / ☐ NAP

judges (case file preparation, assistance during the hearing, court recording, helping to draft the decisions)
such as registrars

3. Staff in charge of different *administrative tasks* and of the *management of the courts* (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management) / NA / NAP

4. Technical staff

5. Other non-judge staff / NA / NAP

If “other non-judge staff”, please specify:

Please provide any useful comment for interpreting the data above:

6. Can you indicate which of the following information and communication technologies are in use in your country to support other than criminal judicial proceedings and their level of utilization?

ICT services which can be used for all procedures (or at least a majority of them)

	Does the service exist?	Name of the application	Number of cases in 2010 *	Please provide any additional relevant information
Electronic payment of fees	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/>
Electronic means for notification and communication to lawyers and parties	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/>
Electronic filing	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/>
Full electronic trial	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/>

*For “full electronic trial” please provide the number of incoming cases

ICT services which can be used only for the simplified procedures (e.g. small claims, order for payment procedure)

	Does the service exist	Name of the application	Number of cases in 2010*	Please provide any additional relevant information
Electronic payment of fees	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/>
Electronic means for notification and communication to lawyers and parties	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/>
Electronic filing	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/>
Full electronic	<input type="checkbox"/> YES	<input type="text"/>	<input type="text"/>	<input type="text"/>

trial	<input type="checkbox"/> NO	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
-------	-----------------------------	--

*For "full electronic trial" please provide the number of incoming cases

7. Please specify which simplified other than criminal judicial procedures exist in your justice system (Evaluation Scheme Q88)?

	Pending cases on 1 Jan.'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10	Court fees
1. Small claim	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
2. Small claims (with the exclusion of order for payment procedure)	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
3. Order for payment procedure	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
4. Other procedure (please specify)	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP

Please provide any useful comment for interpreting the data above :

--

If an **electronic simplified procedure** exists (which at least allows e-filing with legal value), is the system centralized (single national jurisdiction) or decentralized?

Electronic small claim

ICT system name ☐ Centralized / ☐ Decentralized

Electronic small claim excluding order for payment procedure

ICT system name ☐ Centralized / ☐ Decentralized

Electronic order for payment procedure

ICT system name ☐ Centralized / ☐ Decentralized

Other simplified procedure

ICT system name ☐ Centralized / ☐ Decentralized

If data is available, please also specify:

	Pending cases on 1 Jan.'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10	Court fees
1. Electronic small claim	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP
2. Electronic small claims excluding order for payment procedure	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP
2. Electronic order for payment procedure	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP
3. Other procedure (please specify)	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP

Please provide any useful comment for interpreting the data above:

8. Please specify which urgent matter other than criminal judicial procedures exist in your justice system (Evaluation Scheme Q87)?

	Pending cases on 1 Jan.'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10	Court fees
1. <input type="text"/>	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP
2. <input type="text"/>	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP

Please provide any useful comment for interpreting the data above:

If one or more **urgent matter electronic procedure** exists (which at least allows the exchange of electronic data/documents with legal value), is the system centralized (single national jurisdiction) or decentralized?

Urgent matter electronic procedure 1.

ICT system name ☐ Centralized / ☐ Decentralized

Urgent matter electronic procedure 2.

ICT system name ☐ Centralized / ☐ Decentralized

If data is available, please also specify:

	Pending cases on 1 Jan.'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10	Court fees
1. <input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
2. <input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP

Please provide any useful comment for interpreting the data above:

9. If one or more ICT systems exist for other than criminal ordinary judicial procedures (which at least allows e-filing with legal value), could you please specify (Evaluation Scheme Q64):

Name of the ICT system 1

Is the system centralized (single national jurisdiction) or decentralized?

☐ Centralized / ☐ Decentralized

If data is available, please also specify:

Pending cases on 1 Jan.'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10	Court fees
<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP

Please provide any useful comment for interpreting the data above:

Name of the ICT system 2

Is the system centralized (single national jurisdiction) or decentralized?

















































☐ Centralized / ☐ Decentralized

If data is available, please also specify:

Pending cases on 1 Jan.'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10	Court fees
<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP

Please provide any useful comment for interpreting the data above:

10. If data is available, please specify the average number of hearings for the following categories of other than criminal judicial procedures:

	Average number of hearings at first instance	Average number of hearings at second	Average number of hearings at highest instance
Total of civil, commercial and administrative law cases* (litigious and non-litigious)	 NA /  NAP	 NA /  NAP	 NA /  NAP
1 Civil (and commercial) litigious cases*	 NA /  NAP	 NA /  NAP	 NA /  NAP
2 Civil (and commercial) non-litigious cases*	 NA /  NAP	 NA /  NAP	 NA /  NAP
3 Enforcement cases	 NA /  NAP	 NA /  NAP	 NA /  NAP
4 Land registry cases**	 NA /  NAP	 NA /  NAP	 NA /  NAP
5 Business register cases**	 NA /  NAP	 NA /  NAP	 NA /  NAP
6 Administrative law cases	 NA /  NAP	 NA /  NAP	 NA /  NAP
7 Other	 NA /  NAP	 NA /  NAP	 NA /  NAP

Please provide any useful comment for interpreting the data above:

11. If data is available, please provide the number of employment dismissal procedure divided by dismissal motivation:

Disciplinary dismissal   NA /  NAP

Economic dismissal   NA /  NAP

Other   NA /  NAP

Please provide any useful comment for interpreting the data above:

12. If data is available, please specify number of cases (not the number of type of procedures which was asked in the Evaluation Scheme Q167) of judicial mediation procedures and their cost:

	2010 Incoming cases	Resolved cases	Settled through mediation	Average length	Costs	Pending cases on 1 Jan.'10	Pending cases on 31 Dec'10
Total number (1+2+3+4)	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP
1. Civil mediation	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP
2. Family mediation	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP
3. Administrative mediation	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP
4. Employment dismissal mediation	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP

Please provide any useful comment for interpreting the data above:

If you are unable to answer this question (in part or as a whole), could you please suggest someone who could? (Please specify name, phone number, email address)

13. If your legal system provide for arbitration (Evaluation Scheme Q168) and data is available, please specify number of cases and costs:

	Pending cases on 1 Jan.'10	Incoming cases	Resolved cases	Pending cases on 31 Dec'10	Average length	Costs
Arbitration cases	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="text"/> <input type="checkbox"/> NA / <input type="checkbox"/> NAP

Please provide any useful comment for interpreting the data above:

If you are unable to answer this question (in part or as a whole), could you please suggest someone who could? (Please specify name, phone number, email address)

14. If data is available could you please specify (respect to data provided in Evaluation Scheme Q90) for “Land registry cases”?

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
1 Cases dealing with registration	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
2 Cases dealing with a dispute	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
3 Other Cases	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
4 Total (1+2+3)	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP

For “Business registry cases”?

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
1 Cases dealing with registration	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
2 Cases dealing with a dispute	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
3 Other Cases	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
4 Total (1+2+3)	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP

Please provide any useful comment for interpreting the data above:

--

15. In relation to the 8 steps to start a business in your country (with the associated cost and time) described in the following table, could you please specify if the competence is of the justice administration, and if the suggested average time to complete it and costs are correct (if no please specify)? Please also indicate if these steps can be done through Internet.

No.	Procedure	Competence of the justice administration	Suggested time to Complete	Time to complete correct?	Suggested associated Costs	Costs correct?	Possible through Internet?
1	Obtain the confirmation from the Economic Chamber that the start-up company is really a new enterprise	<input type="checkbox"/> YES <input type="checkbox"/> NO	1 day	<input type="checkbox"/> YES <input type="checkbox"/> NO	no charge	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
2	Notarize the statutes/articles of association or the declaration of establishment	<input type="checkbox"/> YES <input type="checkbox"/> NO	4 days	<input type="checkbox"/> YES <input type="checkbox"/> NO	EUR 1,500	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
3	Deposit the minimum requirement of cash capital in the bank	<input type="checkbox"/> YES <input type="checkbox"/> NO	1 day	<input type="checkbox"/> YES <input type="checkbox"/> NO	no charge	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
4	Registration at the local court (Handelsgericht) and publish an announcement of formation in the Wiener Zeitung	<input type="checkbox"/> YES <input type="checkbox"/> NO	7 days for entry into register, 1-2 weeks for announcement	<input type="checkbox"/> YES <input type="checkbox"/> NO	EUR 29 registration fee for private limited companies + publication fee of EUR 40 for first 5 lines and EUR 6 for each additional line (assuming 35 total lines)	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
5	Register trade (Gewerbeanmeldung) with the trade authority (Bezirksverwaltungsbehörde)	<input type="checkbox"/> YES <input type="checkbox"/> NO	1 day	<input type="checkbox"/> YES <input type="checkbox"/> NO	no charge if exemption is granted under Procedure 1; otherwise stamp duties vary depending on the type of trade intended and whether the trade and/or profession only requires registration or it requires permission by authorities (i.e. particular professional qualification must be proven).	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
6	Tax Office registration (obtain a VAT number)	<input type="checkbox"/> YES <input type="checkbox"/> NO	12 days	<input type="checkbox"/> YES <input type="checkbox"/> NO	no charge	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
7	Register employees for social security	<input type="checkbox"/> YES <input type="checkbox"/> NO	1 day	<input type="checkbox"/> YES <input type="checkbox"/> NO	no charge	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
8	Register with the municipality	<input type="checkbox"/> YES <input type="checkbox"/> NO	1 day	<input type="checkbox"/> YES <input type="checkbox"/> NO	no charge	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO

Please provide any useful comment for interpreting the data above:

If one or several steps of competence of the judicial administration (i.e. under the jurisdiction of a court) is missing in the above list, please provide the step description and, if possible, average time and cost:

If you are unable to answer this question (in part or as a whole), could you please suggest someone who could? (Please specify name, phone number, email address)

16. In relation to the 3 steps to complete the registering of property in your country (with the associated cost and time) described in the following table, could you please specify if the competence is of the justice administration, and if the suggested average time to complete it and costs are correct (if no please specify)? Please also indicate if these steps can be done through Internet.

N°	Procedure	Competence of the justice administration	Suggested time to Complete	Is time to complete correct?	Suggested associated Costs	Are the costs correct?	Possible through Internet?
1	Obtain a land registry extract from either the competent District Court, a notary public or an attorney-at-law	<input type="checkbox"/> YES <input type="checkbox"/> NO	1 day (immediately to a few minutes wait)	<input type="checkbox"/> YES <input type="checkbox"/> NO	EUR 12	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
2	Authenticate signatures and authorization of representatives, and property acquisition tax clearance from the notary	<input type="checkbox"/> YES <input type="checkbox"/> NO	1 - 3 days	<input type="checkbox"/> YES <input type="checkbox"/> NO	EUR 134.90 per signature + 3.5% of property value (transfer tax) + 1.1% of property value (Registration fee)	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
3	File the application at the competent District Court (Land Registry)	<input type="checkbox"/> YES <input type="checkbox"/> NO	7-28 days	<input type="checkbox"/> YES <input type="checkbox"/> NO	EUR 38 (for an application using the WebERV), EUR 53 (for an application not using the WebERV)	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO

Please provide any useful comment for interpreting the data above:

If one or several steps of competence of the judicial administration (i.e. under the jurisdiction of a court) is missing in the above list, please provide the step description and, if possible, average time and cost:

If you are unable to answer this question (in part or as a whole), could you please suggest someone who could? (Please specify name, phone number, email address)

17. What is the total number of land and other properties registered in 2010 (i.e. during the year 2010)?

What is the number of land and other properties registered in 2010 (i.e. during the year 2010) by a person or a legal entity established in another Member State of the European Union?

If you are unable to answer this question (in part or as a whole), could you please suggest someone who could? (Please specify name, phone number, email address)

18. What is the total number of companies registered in 2010 (i.e. during the year 2010)?

What is the number of companies registered in 2010 (i.e. during the year 2010) established in another Member State of the European Union?

If you are unable to answer this question (in part or as a whole), could you please suggest someone who could? (Please specify name, phone number, email address)

19. If data is available, please specify for *insolvency and bankruptcy* cases:

	Pending cases on 1 Jan.'10	Incoming cases	Resolved cases	Pending cases on 31 Dec.'10	Court fees
1. Insolvency cases	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
2. Bankruptcy cases	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
3. Insolvency and bankruptcy cases (1+2)	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP

Please provide any useful comment for interpreting the data above:

20. If data is available, please specify the percentage of cases that end with the company ceasing to exist in relation to the number of insolvency and bankruptcy cases:

Please provide any useful comment for interpreting the data above:

ANNEX 4 : NATIONAL CORRESPONDENT

QUESTIONNAIRE - FRENCH (FRANCE)

1.1. Veuillez préciser, si possible, la part du budget public annuel approuvé pour le fonctionnement de l'ensemble des tribunaux (en €) (Question 6 de la grille d'évaluation) en distinguant les procédures judiciaires pénales et les procédures judiciaires non pénales. Si la donnée n'est pas disponible, merci d'indiquer NA.

	Total
Total du budget public annuel approuvé pour le fonctionnement de l'ensemble des tribunaux (1+2)	
1. Budget public alloué au fonctionnement de l'ensemble des tribunaux pour les procédures pénales	/ NA
2. Budget public alloué au fonctionnement de l'ensemble des tribunaux pour les procédures autres que pénales	/ NA

1.2 Veuillez préciser, si possible, la part du budget public annuel approuvé et alloué à l'ensemble du système judiciaire (en €) (Question 10 de la grille d'évaluation) en distinguant les procédures judiciaires pénales et les procédures judiciaires non pénales. Si la donnée n'est pas disponible, merci d'indiquer NA.

	Total
Total du budget public annuel approuvé alloué à l'ensemble du système de justice (1+2)	
1. Budget annuel approuvé alloué à l'ensemble du système de justice en matière pénale	/ NA
2. Budget annuel approuvé alloué à l'ensemble du système de justice en matière autre que pénale	/ NA

2. Pouvez-vous préciser la dénomination et le nombre des tribunaux de droit commun (Question 42 de la grille d'évaluation) en première instance, en seconde instance et au niveau des Cours suprêmes ? Si une instance comporte plus d'un type de tribunal (par ex. la première instance comporte des tribunaux dont la compétence est limitée, les juges de paix, autres...) merci d'indiquer le nom et le nombre pour chaque type de tribunal

Tribunaux de première instance

-
-
-

Tribunaux de seconde instance

-
-
-

Cours Suprêmes

-

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

3. Veuillez préciser, si possible, le nombre de juges professionnels exerçant à titre occasionnel et rémunérés comme tel devant les tribunaux de 1^{ère} instance, de 2^{ème} instance et devant les Cours suprêmes (si possible au 31 décembre 2010). Si la donnée n'est pas disponible, merci d'indiquer NA. Si la situation n'est pas applicable dans votre pays, merci d'indiquer NAP. (Question 48 de la grille d'évaluation).
(veuillez s'il vous plait fournir l'information en équivalent temps plein et pour les postes permanents effectivement occupés, pour tous les types de juridictions confondus – droit commun et spécialisées)

	Donnée brute	Donnée en équivalent temps plein	
Nombre total de juges professionnels exerçant à titre occasionnel devant les tribunaux (1 + 2 + 3)	/ NA	/ NA	NAP
1. Nombre total de juges professionnels exerçant à titre occasionnel devant les tribunaux de 1 ^{ère} instance	/ NA	/ NA	NAP
2. Nombre total de juges professionnels exerçant à titre occasionnel devant les cours d'appel (2 ^{ème} instance)	/ NA	/ NA	NAP
3. Nombre total de juges professionnels exerçant à titre occasionnel devant les cours suprêmes	/ NA	/ NA	NAP

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

4. Veuillez indiquer, si possible, le nombre de juges non professionnels siégeant devant les tribunaux de 1^{ère} instance, de 2^{ème} instance et devant les Cours suprêmes (si possible

au 31 décembre 2010). Si la donnée n'est pas disponible, merci d'indiquer NA. Si la situation n'est pas applicable dans votre pays, merci d'indiquer NAP. (Question 49 de la grille d'évaluation)

(veuillez s'il vous plaît fournir l'information en équivalent temps plein et pour les postes permanents effectivement occupés, pour tous les types de juridictions confondus – droit commun et spécialisées)

	Total	
Nombre total de juges non professionnels (1 + 2 + 3)	<input type="text"/>	
1. Nombre de juges non professionnels de première instance	<input type="text"/> / <input type="text"/> NA	<input type="text"/> NAP
2. Nombre de juges non professionnels dans les cours d'appel (2 ^{ème} instance)	<input type="text"/> / <input type="text"/> NA	<input type="text"/> NAP
3. Nombre de juges non professionnels dans les cours suprêmes	<input type="text"/> / <input type="text"/> NA	<input type="text"/> NAP

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

--

5. Nombre de personnel non juge travaillant dans les tribunaux de 1^{ère} instance (si possible au 31 décembre 2010) (cette donnée ne doit pas comprendre le personnel travaillant pour les procureurs) (Question 52 de la grille d'évaluation)

(veuillez s'il vous plaît fournir l'information en équivalent temps plein et pour les postes permanents effectivement occupés, pour tous les types de juridictions confondus – droit commun et spécialisées)

Nombre total de personnel non juge travaillant dans les tribunaux de 1^{ère} instance / ☐ NA / ☐ NAP

Si possible, pouvez-vous préciser :

1. *Rechtspfleger* (ou organes équivalents) chargés de tâches juridictionnelles ou para-juridictionnelles, ayant des compétences autonomes et dont les décisions peuvent être susceptibles de recours. / ☐ NA / ☐ NAP

2. Personnels non juges chargés d'assister les juges à l'instar des greffiers (préparation des dossiers, assistance à l'audience, tenue des procès verbaux, aide à la préparation de la décision) / ☐ NA / ☐ NAP

3. Personnels chargés de tâches relatives à l'administration et la gestion des tribunaux (gestion des ressources humaines, gestion des moyens matériels y compris de l'informatique, gestion financière et budgétaire, gestion de la formation) / ☐ NA / ☐ NAP

4. Personnels techniques / ☐ NA / ☐ NAP

5. Autres personnels non juges / ☐ NA / ☐ NAP

Si "autres personnels non juges", veuillez préciser :

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

Nombre de personnel non juge travaillant devant les tribunaux de 2^{ème} instance (si possible au 31 décembre 2010) (cette donnée ne doit pas comprendre le personnel travaillant pour les procureurs) (Question 52 de la grille d'évaluation)

(veuillez s'il vous plaît fournir l'information en équivalent temps plein et pour les postes permanents effectivement occupés, pour tous les types de juridictions confondus – droit commun et spécialisées)

Nombre total de personnel non juge travaillant dans les tribunaux de 2^{ème} instance / ☐ NA / ☐ NAP

Si possible, pouvez-vous préciser :

1. *Rechtspfleger* (ou organes équivalents) chargés de tâches juridictionnelles ou para-juridictionnelles, ayant des compétences autonomes et dont les décisions peuvent être susceptibles de recours. / ☐ NA / ☐ NAP

2. Personnels non juges chargés d'assister les juges à l'instar des greffiers (préparation des dossiers, assistance à l'audience, tenue des procès verbaux, aide à la préparation de la décision) / ☐ NA / ☐ NAP

3. Personnels chargés de tâches relatives à l'administration et la gestion des tribunaux (gestion des ressources humaines, gestion des moyens matériels y compris de l'informatique, gestion financière et budgétaire, gestion de la formation) / ☐ NA / ☐ NAP

4. Personnels techniques / ☐ NA / ☐ NAP

5. Autres personnels non juges / ☐ NA / ☐ NAP

Si "autres personnels non juges", veuillez préciser :

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

Nombre de personnel non juge travaillant devant les Cours suprêmes (si possible au 31 décembre 2010) (cette donnée ne doit pas comprendre le personnel travaillant pour les procureurs) (Question 52 de la grille d'évaluation)

(veuillez s'il vous plaît fournir l'information en équivalent temps plein et pour les postes permanents effectivement occupés, pour tous les types de juridictions confondus – droit commun et spécialisées)

Nombre total de personnel non juge travaillant dans les Cours Suprêmes / NA / NAP

Si possible, pouvez-vous préciser :

1. *Rechtspfleger* (ou organes équivalents) chargés de tâches juridictionnelles ou para-juridictionnelles, ayant des compétences autonomes et dont les décisions peuvent être susceptibles de recours. / NA / NAP

2. Personnels non juges chargés d'assister les juges à l'instar des greffiers (préparation des dossiers, assistance à l'audience, tenue des procès verbaux, aide à la préparation de la décision) / NA / NAP

3. Personnels chargés de tâches relatives à l'administration et la gestion des tribunaux (gestion des ressources humaines, gestion des moyens matériels y compris de l'informatique, gestion financière et budgétaire, gestion de la formation) / NA / NAP

4. Personnels techniques / NA / NAP

5. Autres personnels non juges / NA / NAP

Si "autres personnels non juges", veuillez préciser :

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

6. Pouvez-vous indiquer quelles technologies de l'information et de la communication (TIC) sont utilisées pour les procédures judiciaires autres que pénales dans votre pays ainsi que leur degré d'utilisation ?

TIC pouvant être utilisées pour toutes les procédures (ou au moins la majorité d'entre elles)

	Cette possibilité existe-t-elle?	Nom du système	Nombre d'affaires en 2010 *	Merci d'indiquer toute autre information pertinente
Païement électronique des frais	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/>
Moyens électroniques de notification et de communication avec les avocats et les parties	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/>
Dépôt d'une requête sous forme électronique (e-filing)	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/>
Procédure entièrement électronique	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="text"/>	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/>

*Pour la catégorie "procédure entièrement électronique", merci d'indiquer le nombre de nouvelles affaires

TIC ne pouvant être utilisées que pour les procédures simplifiées (par ex. petites créances, injonction de paiement)

	Cette possibilité existe-t-elle?	Nom du système	Nombre d'affaires en 2010 *	Merci d'indiquer toute autre information pertinente
Païement électronique des frais	<input type="checkbox"/> OUI <input type="checkbox"/> NON		<input type="checkbox"/> NA / <input type="checkbox"/> NAP	
Moyens électroniques de notification et de communication avec les avocats et les parties	<input type="checkbox"/> OUI <input type="checkbox"/> NON		<input type="checkbox"/> NA / <input type="checkbox"/> NAP	
Dépôt d'une requête sous forme électronique (e-filing)	<input type="checkbox"/> OUI <input type="checkbox"/> NON		<input type="checkbox"/> NA / <input type="checkbox"/> NAP	
Procédure entièrement électronique	<input type="checkbox"/> OUI <input type="checkbox"/> NON		<input type="checkbox"/> NA / <input type="checkbox"/> NAP	

*Pour la catégorie "procédure entièrement électronique", merci d'indiquer le nombre de nouvelles affaires

7. Veuillez indiquer quelles procédures judiciaires simplifiées existent dans le système de justice de votre pays en matière autre que pénale (Question 88 de la grille d'évaluation) :

	Affaires pendantes au 1 ^{er} janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010	Frais de procédure
1. Petits litiges	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
2. Petits litiges (à l'exclusion des procédures d'injonction de paiement)	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
3. Injonction de paiement	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
4. Autres (veuillez préciser)	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

Si une **procédure simplifiée électronique** existe (qui comprend au moins le dépôt d'une demande sous forme électronique ayant une valeur juridique, "e-filing"), est elle centralisée au niveau national (par une seule juridiction) ou décentralisée ?

Procédure électronique pour les petits litiges

Nom du système ☐ Centralisée / ☐ Décentralisée

Procédure électronique pour les petits litiges à l'exclusion de la procédure d'injonction de paiement

Nom du système ☐ Centralisée / ☐ Décentralisée

Procédure électronique pour l'injonction de payer

Nom du système ☐ Centralisée / ☐ Décentralisée

Autre procédure électronique simplifiée

Nom du système ☐ Centralisée / ☐ Décentralisée

Si les données sont disponibles, pouvez-vous préciser :

	Affaires pendantes au 1 ^{er} janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010	Frais de procédure
1. Procédure électronique pour les petits litiges	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
2. Procédure électronique pour les petits litiges à l'exclusion de la procédure d'injonction de paiement	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
3. Procédure électronique pour l'injonction de paiement	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
4. Autres procédure électronique (veuillez préciser)	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

8. Veuillez indiquer quelles procédures judiciaires existent pour les affaires urgentes dans le système de justice de votre pays en matière autre que pénale (Question 87 de la grille d'évaluation) :

	Affaires pendantes au 1 ^{er} janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010	Frais de procédure
1.	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
2.	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP

Veillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

Si une **procédure électronique existe pour les affaires urgentes** (qui comprend au moins l'échange de données/documents électroniques ayant une valeur juridique), est elle centralisée au niveau national (par une seule juridiction) ou décentralisée ?

Procédure électronique pour les affaires urgentes 1.

Nom du système ☐ Centralisée / ☐ Décentralisée

Procédure électronique accélérée pour les affaires urgentes 2.

Nom du système ☐ Centralisée / ☐ Décentralisée

	Affaires pendantes au 1 ^{er} janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010	Frais de procédure
1.	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP
2.	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP

Veillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

9. Si au moins un système lié aux TIC existe pour les procédures judiciaires ordinaires autre que pénales (qui comprend au moins le dépôt d'une demande sous forme électronique ayant une valeur juridique, "e-filing"), pouvez-vous s'il vous plaît préciser (Question 64 de la grille d'évaluation) :

Nom du système de TIC 1

Le système est-il centralisé au niveau national (par une seule juridiction) ou décentralisé ?

☐ Centralisé / ☐ Décentralisé

Si les données sont disponibles, pouvez vous préciser :

Affaires pendantes au 1 ^{er} janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010	Frais de procédure
<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP

Veillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

Nom du système de TIC 2

Le système est-il centralisé au niveau national (par une seule juridiction) ou décentralisé ?

☐ Centralisé / ☐ Décentralisé

Si les données sont disponibles, pouvez vous préciser :

Affaires pendantes au 1 ^{er} janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010	Frais de procédure
<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP	<input type="checkbox"/> NA / <input type="checkbox"/> NAP

Veillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

10. Si les données sont disponibles, veuillez préciser le nombre moyen d'audiences pour ces différentes catégories de procédures autre que pénales :

	Nombre moyen d'audiences en 1 ^{ère} instance	Nombre moyen d'audiences en 2 ^{ème} instance	Nombre moyen d'audiences devant les Cours suprêmes
Total des affaires civiles, commerciales et administratives * (contentieuses et non- contentieuses)	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
1. Affaires civiles (et commerciales) contentieuses *	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
2 Affaires civiles (et commerciales) non contentieuses *	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
3 Affaires relatives à l'exécution	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
4 Affaires relatives au registre foncier **	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
5 Affaires relatives au registre du commerce **	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
6 . Affaires administratives	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
7 Autres	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

11. Si les données sont disponibles, veuillez préciser le nombre de procédures de licenciement en fonction de l'origine de la procédure :

Licenciement disciplinaire NA / NAP

Licenciement économique NA / NAP

Autre NA / NAP

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

12. Si les données sont disponibles, veuillez préciser le nombre d'affaires relatives à une procédure de médiation judiciaire et leurs coûts (Question 167 de la grille d'évaluation)

	Nouvelles affaires en 2010	Affaires terminées	Affaires résolues par une médiation	Durée moyenne	Coûts	Affaires pendantes au 1 ^{er} janvier 2010	Affaires pendantes au 31 décembre 2010
Nombre total (1+2+3+4)	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
1. Médiation civile	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
2. Médiation familiale	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
3. Médiation administrative	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
4. Médiation en matière de licenciement	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

Si vous ne pouvez pas répondre à l'une des questions ci-dessus (en partie ou en totalité), pourriez-vous nous indiquer les coordonnées de la personne qui pourrait le faire ? (Indiquez le nom, le numéro de téléphone et l'adresse email)

































13. Si votre système judiciaire connaît l'arbitrage (Question 168 de la grille d'évaluation), et si les données sont disponibles, veuillez préciser le nombre d'affaires et les coûts :

	Affaires pendantes au 1 ^{er} janvier 2010	Affaires nouvelles	Affaires terminées	Affaires pendantes au 31 décembre 2010	Durée moyenne	Coûts
Affaires d'arbitrage	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

































Si vous ne pouvez pas répondre à l'une des questions ci-dessus (en partie ou en totalité), pourriez-vous nous indiquer les coordonnées de la personne qui pourrait le faire ? (Indiquez le nom, le numéro de téléphone et l'adresse email)

14. Si les données sont disponibles, pourriez-vous détailler les “Affaires relatives au registre foncier” comme suit (selon les données fournies à la Question 90 de la grille d’évaluation) ?

	Affaires pendantes au 1 ^{er} janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
1 Affaires liées à l’enregistrement	 NA /  NAP	 NA /  NAP	 NA /  NAP	 NA /  NAP
2 Affaires liées à un litige	 NA /  NAP	 NA /  NAP	 NA /  NAP	 NA /  NAP
3 Autres affaires	 NA /  NAP	 NA /  NAP	 NA /  NAP	 NA /  NAP
4 Total (1+2+3)	 NA /  NAP	 NA /  NAP	 NA /  NAP	 NA /  NAP

Veuillez ajouter tout commentaire utile à l’interprétation des données ci-dessus :

Pour les “Affaires relatives au registre du commerce” ?

	Affaires pendantes au 1 ^{er} janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
1 Affaires liées à l’enregistrement	 NA /  NAP	 NA /  NAP	 NA /  NAP	 NA /  NAP
2 Affaires liées à un litige	 NA /  NAP	 NA /  NAP	 NA /  NAP	 NA /  NAP
3 Autres affaires	 NA /  NAP	 NA /  NAP	 NA /  NAP	 NA /  NAP
4 Total (1+2+3)	 NA /  NAP	 NA /  NAP	 NA /  NAP	 NA /  NAP

Veuillez ajouter tout commentaire utile à l’interprétation des données ci-dessus :

15. Au regard des 5 étapes nécessaires pour créer une entreprise dans votre pays (avec le temps et le coût associés) décrites dans le tableau suivant, pourriez-vous préciser si elles relèvent de la compétence de l'administration judiciaire et si le temps et le coût indiqués sont corrects (sinon, merci de corriger) ? Merci d'indiquer enfin si ces étapes peuvent être faites par Internet.

N°	Etapes	Compétence de l'administration judiciaire	Temps nécessaire	Est-ce correct ?	Coûts associés	Est-ce correct ?	Possible par Internet ?
1	Vérifier que le nom de l'entreprise n'a pas déjà été déposé auprès de l'Institut National de la Propriété Industrielle (INPI)	<input type="checkbox"/> OUI <input type="checkbox"/> NON	1 jour	<input type="checkbox"/> OUI <input type="checkbox"/> NON <div></div>	Pas de frais (à moins qu'une recherche approfondie ne soit menée)	<input type="checkbox"/> OUI <input type="checkbox"/> NON <div></div>	<input type="checkbox"/> OUI <input type="checkbox"/> NON
2	Déposer le capital initial	<input type="checkbox"/> OUI <input type="checkbox"/> NON	1 jour	<input type="checkbox"/> OUI <input type="checkbox"/> NON <div></div>	Pas de frais	<input type="checkbox"/> OUI <input type="checkbox"/> NON <div></div>	<input type="checkbox"/> OUI <input type="checkbox"/> NON
* 3	Publier un avis de création de l'entreprise	<input type="checkbox"/> OUI <input type="checkbox"/> NON	1 jour, simultané avec l'étape 2	<input type="checkbox"/> OUI <input type="checkbox"/> NON <div></div>	EUR 150	<input type="checkbox"/> OUI <input type="checkbox"/> NON <div></div>	<input type="checkbox"/> OUI <input type="checkbox"/> NON
4	Remplir une demande d'enregistrement de la société auprès du Centre de Formalités des Entreprises (CFE)	<input type="checkbox"/> OUI <input type="checkbox"/> NON	4 jours	<input type="checkbox"/> OUI <input type="checkbox"/> NON <div></div>	EUR 83.96 payé au Tribunal de commerce	<input type="checkbox"/> OUI <input type="checkbox"/> NON <div></div>	<input type="checkbox"/> OUI <input type="checkbox"/> NON
* 5	Acheter les livres réglementaires (registre des assemblées, livre d'inventaire, livre journal...). Faire coter et parapher ces livres au Greffe du Tribunal de Commerce	<input type="checkbox"/> OUI <input type="checkbox"/> NON	1 jour, simultané avec l'étape 4	<input type="checkbox"/> OUI <input type="checkbox"/> NON <div></div>	Environ EUR 40 par livre + EUR 3.11 de droits d'enregistrement	<input type="checkbox"/> OUI <input type="checkbox"/> NON <div></div>	<input type="checkbox"/> OUI <input type="checkbox"/> NON

* veut dire "a lieu simultanément avec une autre étape"

Veillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

Si une ou plusieurs étapes relevant de la compétence de l'administration judiciaire (i.e. sous la juridiction d'un tribunal) sont absentes dans la liste ci-dessus, veuillez en fournir une courte description et, si possible, indiquer le temps moyen nécessaire à leur accomplissement et les frais associés :

Si vous ne pouvez pas répondre à l'une des questions ci-dessus (en partie ou en totalité), pourriez-vous nous indiquer les coordonnées de la personne qui pourrait le faire ? (Indiquez le nom, le numéro de téléphone et l'adresse email)

16. Au regard des 8 étapes nécessaires pour enregistrer la propriété dans votre pays (avec le temps et le coût associés) décrites dans le tableau suivant, pourriez-vous préciser si elles relèvent de la compétence de l'administration judiciaire et si le temps et le coût indiqués sont corrects (sinon, merci de corriger) ? Merci d'indiquer enfin si ces étapes peuvent être faites par Internet.

N°	Etapes	Compétence de l'administration judiciaire	Temps nécessaire	Est-ce correct ?	Coûts associés	Est-ce correct ?	Possible par Internet ?
* 1	Obtenir de la Conservation des hypothèques un certificat d'absence de grèvement et une recherche de propriété sur 30 ans	<input type="checkbox"/> OUI <input type="checkbox"/> NON	3-4 jours (simultané avec les étapes 2, 3, 4 et 5)	<input type="checkbox"/> OUI <input type="checkbox"/> NON	€ 12 par demande jusqu'à 5 plans + € 2 pour chaque plan supplémentaire (hors formalité) + € 2 de frais de port	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="checkbox"/> OUI <input type="checkbox"/> NON
* 2	Obtenir un certificat du cadastre ("plan cadastral - Modèle 1")	<input type="checkbox"/> OUI <input type="checkbox"/> NON	1 jour (simultané avec les étapes 1, 3, 4 et 5)	<input type="checkbox"/> OUI <input type="checkbox"/> NON	gratuit	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="checkbox"/> OUI <input type="checkbox"/> NON
* 3	Obtenir des certificats d'urbanisme	<input type="checkbox"/> OUI <input type="checkbox"/> NON	1 jour (simultané avec les étapes 1, 2, 4 et 5)	<input type="checkbox"/> OUI <input type="checkbox"/> NON	gratuit (Internet) [ou 120 € lorsque la demande est faite par un expert]	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="checkbox"/> OUI <input type="checkbox"/> NON
* 4	L'acheteur obtient les rapports environnementaux obligatoires	<input type="checkbox"/> OUI <input type="checkbox"/> NON	15 - 30 jours (simultané avec les étapes 1, 2, 3 et 5)	<input type="checkbox"/> OUI <input type="checkbox"/> NON	Environ EUR 800	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="checkbox"/> OUI <input type="checkbox"/> NON
* 5	Obtenir la renonciation au droit de préemption de la part de la mairie	<input type="checkbox"/> OUI <input type="checkbox"/> NON	20 jours (simultané avec les étapes 1, 2, 3 et 4) (légalement 2 mois)	<input type="checkbox"/> OUI <input type="checkbox"/> NON	gratuit	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="checkbox"/> OUI <input type="checkbox"/> NON
6	Le notaire prépare l'acte de vente	<input type="checkbox"/> OUI <input type="checkbox"/> NON	2 jours	<input type="checkbox"/> OUI <input type="checkbox"/> NON	Les frais sont dus à la signature de l'acte (étape 7)	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="checkbox"/> OUI <input type="checkbox"/> NON
7	L'acte de vente est exécuté par le notaire	<input type="checkbox"/> OUI <input type="checkbox"/> NON	31 jours	<input type="checkbox"/> OUI <input type="checkbox"/> NON	0,825% du prix d'achat (frais de notaire) + 5,09% du prix d'achat (frais d'enregistrement)	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="checkbox"/> OUI <input type="checkbox"/> NON
8	Publication de l'acte de vente à la Conservation des hypothèques	<input type="checkbox"/> OUI <input type="checkbox"/> NON	5 jours	<input type="checkbox"/> OUI <input type="checkbox"/> NON	EUR 25 (taxe de publication incluse à l'étape 7) + 0,1% du prix d'achat (pour le paiement de l'enregistreur)	<input type="checkbox"/> OUI <input type="checkbox"/> NON	<input type="checkbox"/> OUI <input type="checkbox"/> NON

* veut dire "à lieu simultanément avec une autre étape"

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

Si une ou plusieurs étapes relevant de la compétence de l'administration judiciaire (i.e. sous la juridiction d'un tribunal) sont absentes dans la liste ci-dessus, veuillez en fournir une courte description et, si possible, indiquer le temps moyen nécessaire à leur accomplissement et les frais associés :

Si vous ne pouvez pas répondre à l'une des questions ci-dessus (en partie ou en totalité), pourriez-vous nous indiquer les coordonnées de la personne qui pourrait le faire ? (Indiquez le nom, le numéro de téléphone et l'adresse email)

17. Quel est le nombre total de propriétés foncières enregistrées au cours de l'année 2010 ?

Quel est le nombre de propriétés foncières enregistrées au cours de l'année 2010 par une personne physique ou morale établie dans un autre Etat membre de l'Union Européenne ?

Si vous ne pouvez pas répondre à l'une des questions ci-dessus (en partie ou en totalité), pourriez-vous nous indiquer les coordonnées de la personne qui pourrait le faire ? (Indiquez le nom, le numéro de téléphone et l'adresse email)

18. Quel est le nombre total d'entreprises enregistrées au cours de l'année 2010 ?

Quel est le nombre d'entreprises enregistrées au cours de l'année 2010 établies dans un autre Etat membre de l'Union Européenne ?

Si vous ne pouvez pas répondre à l'une des questions ci-dessus (en partie ou en totalité), pourriez-vous nous indiquer les coordonnées de la personne qui pourrait le faire ? (Indiquez le nom, le numéro de téléphone et l'adresse email)

19. Si les données sont disponibles, indiquez pour les affaires liées à l'insolvabilité et la faillite :

	Affaires pendantes au 1 ^{er} janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010	Frais judiciaires
1. Affaires liées à l'insolvabilité	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
2. Affaires liées à la faillite	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP
3. Affaires liées à l'insolvabilité et à la faillite (1+2)	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP	<input type="text"/> NA / <input type="text"/> NAP

Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

--

20. Si les données sont disponibles, indiquez le pourcentage des affaires liées à l'insolvabilité et à la faillite se terminant par la disparition totale de l'entreprise :

--

Veillez ajouter tout commentaire utile à l'interprétation des données ci-dessus :

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ANNEX 5: METHODOLOGICAL NOTE OF THE NATIONAL CORRESPONDENT QUESTIONNAIRE - ENGLISH

Question 1.1

The annual approved budget allocated to the functioning of all courts covers the functioning of the courts (without the public prosecution services and without legal aid), whatever the source of this budget is. It is defined by the CEPEJ (see categories below) and may differ from the member states' definitions. For comparability reasons, please observe the CEPEJ categories.

If you cannot separate the budget of the public prosecution services and / or the budget of legal aid from the budget allocated to the functioning of all courts, it is absolutely necessary to indicate it and give an estimate of the budget allocated to the functioning of all courts (compared with the public prosecution budget), if possible.

The figures presented must be the figures of the **approved** budget, e.g. the budget that has been formally approved by the Parliament (or another competent public authority), but not the one effectively executed.

Where appropriate, the annual approved budget allocated to the functioning of all courts must include both the budget at national level and at the level of regional or federal entities.

The total should include:

- 1. (Gross) salaries** are those of all judicial and non-judicial staff working within courts, excluding, if appropriate, the public prosecution system (and the staff working for the prosecution services). This amount should include the total salary costs for the employer: if, in addition to the gross salary proper, the employer also pays insurances and/or pensions, these contributions should be included.
- 2. Computerisation** includes all the expenses for the installation, use and maintenance of computer systems (including the expenses paid to the technical staff).
- 3. Justice expenses** borne by the state (or by the justice system) refer to the amounts that the courts should pay out within the framework of judicial proceedings, such as expenses paid for expert opinions or court interpreters. Any expenses to be paid by the parties (court fees and taxes; see question 8-9) or aimed at legal aid should not be indicated here (see question 12).
- 4. Court buildings'** budget includes all the costs that are related to the maintenance and operation of court buildings (costs for rental, electricity, security, cleaning, maintenance etc.). It does not include investments in new buildings.
- 5. Investments in new court buildings** include all the costs that are connected with investments in new court buildings.

6. Training and education includes all the costs that are related to training courses or the education of judges and court staff.

7. Other includes all figures that you can not subsume under categories 1 to 6.

The annual approved budget allocated to all courts **does not include** in particular:

- the budget for the prison and probation systems;
- the budget for the operation of the Ministry of Justice (and/or any other institution which deals with the administration of justice);
- the budget for the operation of other institutions (other than courts) attached to the Ministry of Justice;
- the budget of the prosecution system (see question 13);
- the budget of the judicial protection of youth (social workers, etc);
- the budget of the Constitutional courts;
- the budget of the High Council for the Judiciary (or similar body);
- the annual income of court fees or taxes received by the state (see questions 8 et 9),
- the budget for legal aid (see question 12).

Question 1.2

This question takes into account the approved budget allocated to the whole justice system (contrary to question 1 which concerns only the court system).

The figures presented must be the figures of the **approved** budget, for instance, the budget that has been formally approved by the Parliament (or another competent public authority), but not the one effectively executed.

The public annually approved budget allocated to the whole justice system should include, in particular:

- the budget of the prison system;
- the budget for the functioning of the Ministry of Justice or other bodies,
- the budget for the judicial protection of youth;
- the budget for the public prosecution system;
- the budget for the courts and the judiciary;
- the budget for high councils for the judiciary;
- the budget for legal aid;
- the budget for probation services;
- the budget for refugees and asylum seekers services
- etc. (please specify the other possible elements)

This figure will enable, for instance, to assess the part of this budget dedicated to the functioning of all courts, as stated in question 1.

Question 3

This question concerns occasional professional judges who do not perform their duty on a permanent basis but who are fully paid for their function as a judge.

At first, in order to measure to what extent part-time judges participate in the judicial system, the *gross data* could be indicated. Secondly, in order to compare the situation between member states, the same indication could be given, if possible, in *full-time equivalent*

Question 4

For the purposes of this question, *non-professional judges* are those who sit in courts, and whose decisions are binding but who are not *professional judges* (*professional judges* are those who have been trained and who are paid as such.). This category includes namely lay judges and the (French) "*juges consulaires*". Neither the arbitrators, nor the persons who have been sitting in a jury (see question 50) are subject to this question.

The information should be given for permanent posts that are actually filled (not the theoretical number included in the budget) and in full-time equivalent. *Full-time equivalent* indicates the number of persons working the standard number of hours (whereas the *gross figure* of posts includes the total number of persons working independently of their working hours). The indication of the full-time equivalent implies that the number of part time working persons has to be converted: for instance, one half-time worker should count for 0.5 of a full-time equivalent, two people that work half the standard number of hours count for one "full-time equivalent".

The data concerns all general jurisdiction and specialised courts.

Question 5

The whole non-judge staff, working in all courts, must be counted here in full-time equivalent for permanent posts. Please make sure that the figures presented exclude staff working for the public prosecution services (otherwise mention the situation in the comment).

1. *The Rechtspfleger* is defined as an independent judicial authority according to the tasks that were delegated to him/her by law. Such tasks can be connected to: family and guardianship law, law of succession, law on land register, commercial registers, decisions about granting a nationality, criminal law cases, enforcement of sentences, reduced sentencing by way of community service, prosecution in district courts, decisions concerning legal aid, etc. The *Rechtspfleger* has a quasi judicial function.

2. *Non-judge (judicial) staff* directly assist a judge with judicial support (assistance during hearings, (judicial) preparation of a case, court recording, judicial assistance in the drafting of the decision of the judge, legal counselling - for example court registrars). If data has been given under the previous category (*Rechtspfleger*), please do not add this figure again under the present category.

3. *Administrative staff* are not directly involved in the judicial assistance of a judge, but are responsible for administrative tasks (such as the registration of cases in a computer system, the supervision of the payment of court fees, administrative preparation of case files, archiving) and/or the management of the court (for example a head of the court secretary, head of the computer department of the court, financial director of a court, human resources manager, etc.).

4. *Technical staff* are staff in charge of execution tasks or any technical and other maintenance related duties such as cleaning staff, security staff, staff working at the courts' computer departments or electricians.

5. *Other non-judge staff* include all non-judge staff that aren't included under the categories 1-4.

The total number indicated in the first column must absolutely correspond to the total of categories 1 to 5.

Question 7

Such a *simplified procedure* can be used in civil matters for instance when it concerns the enforcement of a simple obligation (e.g. payment order).

Question 8

Such a *procedure for urgent cases* (accelerated) can be used in order for the judge to take a provisional decision (e.g. decision on the right to control and care for a child) or when it is necessary to preserve evidence or when there is a risk of imminent or hardly repairable damage (for instance emergency interim proceedings).

Question 11

Employment dismissal cases: cases concerning the termination of (an) employment (contract) at the initiative of the employer (working in the private sector). It does not include dismissals of public officials, following a disciplinary procedure for instance.

Question 12

The interest of this question is to understand the number of cases which are dealt through judicial mediation (as for example in Evaluation Scheme Q91).

For the purposes of this specific question, "*civil cases*" exclude family and employment dismissal cases, to be addressed specifically below.

Mediation: this is a voluntary, non-binding private dispute resolution process in which a neutral and independent person assists the parties in facilitating the discussion between the parties in order to help them resolve their difficulties and reach an agreement. It exists in civil, administrative and criminal matters.

Judicial mediation: in this type of mediation, there is always the intervention of a judge or a public prosecutor who facilitates, advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement).

Question 13

Arbitration: parties select an impartial third party, known as an arbitrator, whose (final) decision is binding. Parties can present evidence and testimonies before the arbitrators. Sometimes there are several arbitrators selected who work as a court. Arbitration is most commonly used for the resolution of commercial disputes as it offers higher confidentiality.

Question 15

Our source for the procedures is World Bank database "Doing Business". World Bank uses a fictive example to make sure that the data obtained are comparable among countries. Regarding "Starting a business", the methodology is as follow:

Doing Business records all procedures that are officially required for an entrepreneur to start up and formally operate an industrial or commercial business. These include obtaining all necessary licenses and permits and completing any required notifications, verifications or inscriptions for the company and employees with relevant authorities. The ranking on the ease of starting a business is the simple average of the percentile rankings on its component indicators (figure A.1).

After a study of laws, regulations and publicly available information on business entry, a detailed list of procedures is developed, along with the time and cost of complying with each procedure under normal circumstances and the paid-in minimum capital requirements. Subsequently, local incorporation lawyers, notaries and government officials complete and verify the data.

Information is also collected on the sequence in which procedures are to be completed and whether procedures may be carried out simultaneously. It is assumed that any required information is readily available and that all agencies involved in the start-up process function without corruption. If answers by local experts differ, inquiries continue until the data are reconciled.

To make the data comparable across economies, several assumptions about the business and the procedures are used.

Assumptions about the business

The business:

- Is a limited liability company (or its legal equivalent). If there is more than one type of limited liability company in the economy, the limited liability form most popular among domestic firms is chosen. Information on the most popular form is obtained from incorporation lawyers or the statistical office.
- Operates in the economy's largest business city.
- Is 100% domestically owned and has 5 owners, none of whom is a legal entity.
- Has start-up capital of 10 times income per capita at the end of 2010, paid in cash.
- Performs general industrial or commercial activities, such as the production or sale to the public of products or services. The business does not perform foreign trade activities and does not handle products subject to a special tax regime, for example, liquor or tobacco. It is not using heavily polluting production processes.
- Leases the commercial plant and offices and is not a proprietor of real estate.
- Does not qualify for investment incentives or any special benefits.
- Has at least 10 and up to 50 employees 1 month after the commencement of operations, all of them nationals.
- Has a turnover of at least 100 times income per capita.
- Has a company deed 10 pages long.

Procedures

A procedure is defined as any interaction of the company founders with external parties (for example, government agencies, lawyers, auditors or notaries). Interactions between company founders or company officers and employees are not counted as procedures. Procedures that must be completed in the same building but in different offices are counted as separate procedures. If founders have to visit the same office several times for different sequential procedures, each is counted separately. The founders are assumed to complete all procedures themselves, without middlemen, facilitators, accountants or lawyers, unless the use of such a third party is mandated by law. If the services of professionals are required, procedures conducted by such professionals on behalf of the company are counted separately. Each electronic procedure is counted separately. If 2 procedures can be completed through the same website but require separate filings, they are counted as 2 procedures.

Both pre- and postincorporation procedures that are officially required for an entrepreneur to formally operate a business are recorded (table A.1).

Procedures required for official correspondence or transactions with public agencies are also included. For example, if a company seal or stamp is required on official documents, such as tax declarations, obtaining the seal or stamp is counted. Similarly, if a company must open a bank account before registering for sales tax or value added tax, this transaction is included as a procedure. Shortcuts are counted only if they fulfill 4 criteria: they are legal, they are available to the general public, they are used by the majority of companies, and avoiding them causes substantial delays. Only procedures required of all businesses are covered. Industry-specific procedures are excluded. For example, procedures to comply with environmental regulations are included only when they apply to all businesses conducting general commercial or industrial activities. Procedures that the company undergoes to connect to electricity, water, gas and waste disposal services are not included.

Time

Time is recorded in calendar days. The measure captures the median duration that incorporation lawyers indicate is necessary in practice to complete a procedure with minimum follow-up with government agencies and no extra payments. It is assumed that the minimum time required for each procedure is 1 day. Although procedures may take place simultaneously, they cannot start on the same day (that is, simultaneous procedures start on consecutive days). A procedure is

considered completed once the company has received the final document, such as the company registration certificate or tax number. If a procedure can be accelerated for an additional cost, the fastest procedure is chosen. It is assumed that the entrepreneur does not waste time and commits to completing each remaining procedure without delay. The time that the entrepreneur spends on gathering information is ignored. It is assumed that the entrepreneur is aware of all entry requirements and their sequence from the beginning but has had no prior contact with any of the officials.

Cost

Cost is recorded as a percentage of the economy's income per capita. It includes all official fees and fees for legal or professional services if such services are required by law. Fees for purchasing and legalizing company books are included if these transactions are required by law. The company law, the commercial code and specific regulations and fee schedules are used as sources for calculating costs. In the absence of fee schedules, a government officer's estimate is taken as an official source. In the absence of a government officer's estimate, estimates of incorporation lawyers are used. If several incorporation lawyers provide different estimates, the median reported value is applied. In all cases the cost excludes bribes.

Question 16

Our source for the procedures is World Bank database "Doing Business". World Bank uses a fictive example to make sure that the data obtained are comparable among countries. Regarding "Registering property", the methodology is as follow:

Doing Business records the full sequence of procedures necessary for a business (buyer) to purchase a property from another business (seller) and to transfer the property title to the buyer's name so that the buyer can use the property for expanding its business, use the property as collateral in taking new loans or, if necessary, sell the property to another business. The process starts with obtaining the necessary documents, such as a copy of the seller's title if necessary, and conducting due diligence if required. The transaction is considered complete when it is opposable to third parties and when the buyer can use the property, use it as collateral for a bank loan or resell it. The ranking on the ease of registering property is the simple average of the percentile rankings on its component indicators (figure A.1).

Every procedure required by law or necessary in practice is included, whether it is the responsibility of the seller or the buyer or must be completed by a third party on their behalf. Local property lawyers, notaries and property registries provide information on procedures as well as the time and cost to complete each of them.

To make the data comparable across economies, several assumptions about the parties to the transaction, the property and the procedures are used.

Assumptions about the parties

The parties (buyer and seller):

- Are limited liability companies.
- Are located in the periurban area of the economy's largest business city.
- Are 100% domestically and privately owned.
- Have 50 employees each, all of whom are nationals.
- Perform general commercial activities.

Assumptions about the property

The property:

- Has a value of 50 times income per capita. The sale price equals the value.

- Is fully owned by the seller.
- Has no mortgages attached and has been under the same ownership for the past 10 years.
- Is registered in the land registry or cadastre, or both, and is free of title disputes.
- Is located in a periurban commercial zone, and no rezoning is required.
- Consists of land and a building. The land area is 557.4 square meters (6,000 square feet). A 2-story warehouse of 929 square meters (10,000 square feet) is located on the land. The warehouse is 10 years old, is in good condition and complies with all safety standards, building codes and other legal requirements. The property of land and building will be transferred in its entirety.
- Will not be subject to renovations or additional building following the purchase.
- Has no trees, natural water sources, natural reserves or historical monuments of any kind.
- Will not be used for special purposes, and no special permits, such as for residential use, industrial plants, waste storage or certain types of agricultural activities, are required.
- Has no occupants (legal or illegal), and no other party holds a legal interest in it.

Procedures

A procedure is defined as any interaction of the buyer or the seller, their agents (if an agent is legally or in practice required) or the property with external parties, including government agencies, inspectors, notaries and lawyers. Interactions between company officers and employees are not considered. All procedures that are legally or in practice required for registering property are recorded, even if they may be avoided in exceptional cases (table A.1). It is assumed that the buyer follows the fastest legal option available and used by the majority of property owners. Although the buyer may use lawyers or other professionals where necessary in the registration process, it is assumed that the buyer does not employ an outside facilitator in the registration process unless legally or in practice required to do so.

Time

Time is recorded in calendar days. The measure captures the median duration that property lawyers, notaries or registry officials indicate is necessary to complete a procedure. It is assumed that the minimum time required for each procedure is 1 day. Although procedures may take place simultaneously, they cannot start on the same day. It is assumed that the buyer does not waste time and commits to completing each remaining procedure without delay. If a procedure can be accelerated for an additional cost, the fastest legal procedure available and used by the majority of property owners is chosen. If procedures can be undertaken simultaneously, it is assumed that they are. It is assumed that the parties involved are aware of all requirements and their sequence from the beginning. Time spent on gathering information is not considered.

Cost

Cost is recorded as a percentage of the property value, assumed to be equivalent to 50 times income per capita. Only official costs required by law are recorded, including fees, transfer taxes, stamp duties and any other payment to the property registry, notaries, public agencies or lawyers. Other taxes, such as capital gains tax or value added tax, are excluded from the cost measure. Both costs borne by the buyer and those borne by the seller are included. If cost estimates differ among sources, the median reported value is used.

ANNEX 6 : METHODOLOGICAL NOTE OF THE NATIONAL CORRESPONDENT QUESTIONNAIRE - FRENCH

Question 1.1

*Le budget public annuel approuvé pour le fonctionnement de l'ensemble des tribunaux concerne le fonctionnement des tribunaux (**sans le ministère public ni l'aide judiciaire**), quelle que soit l'origine du budget. Il a été défini par la CEPEJ (voir catégories ci-dessous) et peut donc différer de la définition des Etats membres. Pour des raisons de comparabilité, veuillez respecter la définition de la CEPEJ.*

S'il n'est pas possible de distinguer le budget du ministère public et/ou le budget accordé à l'aide judiciaire du budget de l'ensemble des tribunaux, veuillez impérativement l'indiquer et donner, si possible, une estimation du budget de l'ensemble des tribunaux (par rapport à celui du ministère public).

Les montants présentés doivent correspondre au budget **approuvé**, c'est-à-dire que le budget a été formellement approuvé par le Parlement (ou une autre autorité publique compétente), et non pas celui réellement exécuté.

Le cas échéant, le budget annuel approuvé pour le fonctionnement de l'ensemble des tribunaux doit inclure le budget national et celui/ceux des collectivités régionales ou fédérales.

Le total devra inclure :

1. Les **salaires (bruts)** sont ceux de l'ensemble du personnel judiciaire et non judiciaire travaillant dans les tribunaux, à l'exception, le cas échéant, du ministère public (et du personnel travaillant pour le ministère public). Ce montant doit inclure l'ensemble des coûts à la charge de l'employeur liés aux salaires: si, en plus du salaire brut proprement dit, l'employeur paye aussi des assurances et/ou des pensions, ces contributions doivent être incluses.
2. L'**informatisation** inclut l'ensemble des dépenses pour l'installation, l'utilisation et la maintenance du système informatique (y compris les frais du personnel technique).
3. Les **frais de justice** engagés par l'Etat (ou par le système judiciaire) renvoient aux montants que les tribunaux doivent payer dans le cadre de procédures judiciaires, tels que les frais d'expertise ou les interprètes des tribunaux. Il ne faut pas indiquer ici les frais éventuellement payés par les justiciables aux tribunaux (frais et taxes judiciaires, voir les questions 8 et 9) ou payés dans le cadre de l'aide judiciaire (voir la question 12).
4. Le budget des **bâtiments** inclut tous les coûts liés à la maintenance et au fonctionnement des bâtiments des tribunaux (frais de location, d'électricité, de sécurité, de nettoyage, d'entretien etc.). Ceci ne concerne pas l'investissement dans des bâtiments neufs.
5. L'**investissement en nouveaux bâtiments dédiés aux tribunaux** inclut tous les coûts liés à l'investissement dans de nouveaux bâtiments pour les tribunaux.
6. La **formation** inclut tous les coûts liés à la formation ou à l'éducation des juges et du personnel des tribunaux.

7. La rubrique "**autres**" comprend toutes les données ne pouvant pas être intégrées dans les catégories ci-dessus.

Le budget annuel adopté et alloué à l'ensemble des tribunaux n'inclut notamment **pas**:

- le budget du système pénitentiaire et des services de probation;
- le budget de fonctionnement du ministère de la Justice (et/ou des institutions compétentes pour l'administration de la justice);
- le budget de fonctionnement des autres institutions rattachées au Ministère de la Justice (autres que les tribunaux);
- le budget du Ministère public (voir la question 13);
- le budget de la protection judiciaire de la jeunesse (travailleurs sociaux, etc....)
- le budget des cours constitutionnelles;
- le budget du Conseil supérieur de la justice (ou organes équivalents);
- le revenu annuel provenant des frais et taxes judiciaires perçus par l'Etat (voir les questions 8-9);
- le budget consacré à l'aide judiciaire (voir la question 12).

Question 1.2

Cette question prend en compte le budget approuvé pour l'ensemble du système de justice (contrairement à la question 1 qui concerne seulement les tribunaux).

Les données indiquées doivent être celles concernant le budget **approuvé**, c'est-à-dire que le budget a été formellement approuvé par le Parlement (ou une autre autorité publique compétente), et non pas celui réellement exécuté.

Le budget public annuel approuvé pour l'ensemble du système de justice devrait inclure notamment:

- le budget du système pénitentiaire;
- le budget de fonctionnement du ministère de la Justice ou d'autres instances;
- le budget la protection judiciaire de la jeunesse;
- le budget du ministère public;
- le budget des tribunaux;
- le budget des conseils supérieurs de la justice;
- le budget consacré à l'aide judiciaire;
- le budget du service de probation ;
- le budget des services des demandeurs d'asile et réfugiés ;
- etc. (veuillez préciser les autres éléments possibles)

Ces données permettront, par exemple, d'évaluer la part de ce budget consacrée au fonctionnement de l'ensemble des tribunaux, tel que mentionné à la question 1.

Question 3

Cette question concerne des *juges professionnels occasionnels* qui n'exercent pas leurs fonctions à titre permanent mais qui sont pleinement rémunérés pour leur fonction de juge.

Dans un premier temps, afin de pouvoir mesurer l'ampleur du recours à des juges occasionnels, la donnée brute pourrait être fournie. Dans un second temps, afin de pouvoir comparer cette situation d'un Etat à l'autre, cette même statistique pourrait être fournie, si possible, en équivalent temps plein.

Question 4

Aux fins de la présente question, les *juges non professionnels* s'entendent comme ceux qui siègent aux tribunaux et rendent des décisions contraignantes mais qui ne sont pas des juges professionnels (les juges professionnels sont ceux qui ont été formés et qui sont rémunérés comme tels). Cette catégorie inclut notamment les *juges non professionnels (lay judges)* et les juges consulaires (français). Ni les arbitres ni les personnes ayant siégé dans un jury (voir question 50) ne sont concernés par cette question.

L'information doit être fournie en équivalent temps plein et pour des postes permanents effectivement remplis (pas le nombre théorique inscrit au budget). *L'équivalent temps plein* est un indicateur du nombre de personnes travaillant pour un taux standard d'heures (alors que les *données brutes* concernant les postes incluent toutes les personnes travaillant indépendamment de leurs heures de travail). Le résultat souhaité de l'équivalent à temps plein suppose la nécessaire conversion du nombre de personnes travaillant à mi-temps : par exemple, un travailleur à mi-temps représente 0,5 d'un équivalent temps plein, deux personnes travaillent la moitié du taux standard d'heures valent un équivalent temps plein.

La donnée concerne l'ensemble des tribunaux, qu'ils soient de droit commun ou spécialisés.

Question 5

L'ensemble du personnel non juge, travaillant dans l'ensemble des tribunaux, doit être compté, en équivalent temps plein et pour des postes permanents. Veillez à ce que les données excluent le personnel travaillant pour le Ministère Public (à défaut, veuillez préciser la situation dans l'espace prévu à cet effet)

1. Le *Rechtspfleger* est défini comme une instance de juridiction indépendante conformément aux tâches qui lui sont attribuées par la loi. Ces tâches peuvent être relatives : au droit de la famille ou des tutelles, au droit de succession, aux registres de propriété foncière, aux registres du commerce, aux décisions d'attribution de nationalité, à des affaires pénales, à l'exécution des peines, à l'ordonnance d'aménagement des peines sous forme de travaux d'intérêt général, aux poursuites au niveau des tribunaux de district, aux décisions relatives à l'aide judiciaire, etc. Le *Rechtspfleger* a une fonction quasi-judiciaire.

2. Le *personnel (judiciaire) non-juge* assiste directement le juge en lui apportant un soutien d'ordre judiciaire (assistance pendant les audiences, préparation (judiciaire) des dossiers, prise de notes pendant les audiences, assistance judiciaire dans la rédaction des décisions du juge, conseil juridique - par exemple les greffiers de justice). Si des données ont été fournies sous la catégorie précédente (*Rechtspfleger*), prière de ne pas rajouter le nombre sous cette catégorie.

3. Le *personnel administratif* n'est pas directement impliqué dans l'assistance au juge, mais est responsable des tâches administratives (telles que l'enregistrement des affaires dans le système informatique, la supervision du paiement des frais de justice, la préparation administrative des dossiers, l'archivage) et/ou de gestion du tribunal (par exemple chef de secrétariat, chef du service informatique, directeur financier du tribunal, responsable des ressources humaines, etc.).

4. Le *personnel technique* est constitué du personnel chargé de tâches d'exécution ou de fonctions d'entretien ou techniques tels que le personnel de nettoyage, de sécurité, de maintenance du parc informatique ou les électriciens.

5. *Autre personnel non-juge* inclut tout le personnel qui ne figure pas sous les catégories 1-4.

Le total indiqué dans la première colonne doit correspondre impérativement à l'addition des catégories 1 à 5.

Question 7

Une telle *procédure simplifiée* peut être utilisée par exemple en matière civile lorsqu'elle a pour objet de connaître de l'exécution d'une obligation peu complexe (par exemple injonction de payer).

Question 8

Une telle *procédure d'urgence* (accélérée) peut être utilisée par exemple pour permettre au juge de rendre une décision provisoire (par exemple l'attribution de la garde d'un enfant), ou en cas de nécessité de préserver des éléments de preuve ou de dommage imminent ou difficilement réparable (par exemple procédure de référé).

Question 11

Licenciements: affaires relatives à la fin d'un (contrat de) travail à l'initiative de l'employeur (opérant dans le secteur privé). Ceci n'inclut pas les fins de contrat des agents publics, suite à une procédure disciplinaire par exemple.

Question 12

L'intérêt de cette question est de connaître le nombre d'affaires qui sont traitées grâce à une médiation judiciaire (comme par exemple dans la question 91 de la grille d'évaluation).

Aux fins de cette question spécifique, les affaires de droit de la famille et de licenciement ne doivent pas être comptées dans les "*affaires civiles*", mais traitées séparément.

Médiation: il s'agit d'un procès volontaire, non contraignant de règlement des litiges privés dans lequel un tiers impartial et indépendant aide les parties à faciliter la discussion afin de les aider à résoudre leurs difficultés et de parvenir à un accord. Elle concerne la matière civile, administrative et pénale.

Médiation judiciaire : dans ce type de médiation, il y a toujours intervention d'un juge, d'un procureur qui facilite, conseille, décide ou/et approuve la procédure. Par exemple, dans des litiges civils ou des cas de divorce, les juges peuvent diriger les parties vers un médiateur s'ils estiment que des résultats plus satisfaisants peuvent être obtenus pour les deux parties. En matière pénale, le procureur peut se proposer en tant que médiateur entre un délinquant et une victime (par exemple pour établir un accord d'indemnisation).

Question 13

Arbitrage: les parties choisissent un tiers impartial - un arbitre, dont la décision définitive est contraignante. Les parties peuvent présenter des preuves et des témoignages devant les arbitres. Parfois, il y a plusieurs arbitres désignés qui travaillent en tant que juridiction. L'arbitrage est le plus souvent utilisé pour la résolution des litiges commerciaux car il offre une plus grande confidentialité.

Question 15

Notre source pour les étapes est la base de données de la Banque Mondiale "Doing Business". La Banque Mondiale utilise un exemple fictif pour s'assurer de la comparabilité des données entre les pays. En ce qui concerne la création d'entreprise, la méthodologie est la suivante (extraite du site <http://www.doingbusiness.org>):

Doing Business recense toutes les procédures officiellement exigées d'un entrepreneur pour la création et la gestion formelle d'une entreprise industrielle ou commerciale. Il s'agit notamment d'obtenir toutes les licences et tous les permis nécessaires, et d'accomplir, auprès des autorités concernées, toute formalité requise pour l'entreprise et ses employés, y compris les notifications, vérifications ou inscriptions. Le classement de la facilité à créer une entreprise correspond à la moyenne simple des classements en percentile pour les indicateurs qui le composent.

Après l'examen des lois, de la réglementation et des informations publiques disponibles sur la création d'entreprises, une liste détaillée des procédures, délais, et coûts nécessaires pour s'acquitter de ces procédures, dans des conditions normales et des montants minimums de capital à verser, est établie. Par la suite, des avocats experts en constitution de sociétés, des notaires et des représentants des Etats complètent et vérifient les données.

Des informations concernant l'ordre des procédures à accomplir et la possibilité de le faire simultanément sont également rassemblées. *Doing Business* part du principe que toutes les informations nécessaires sont disponibles immédiatement et que tous les services participant aux procédures de création d'entreprise exercent leurs activités sans la moindre corruption. Lorsque les réponses des experts locaux divergent, d'autres enquêtes sont menées jusqu'à la conciliation de toutes les données. Pour assurer la comparabilité des données d'une économie à l'autre, plusieurs hypothèses concernant l'entreprise et les procédures sont retenues.

Hypothèses relatives à l'entreprise

L'entreprise:

- Est une société à responsabilité limitée (ou son équivalent légal). Lorsqu'il existe plus d'un type de société à responsabilité limitée dans l'économie concernée, la forme la plus courante de société à responsabilité limitée dans le milieu des entreprises locales est choisie. Les informations concernant cette forme de société sont obtenues auprès de juristes experts en constitution de sociétés ou du service des statistiques.
- Exerce ses activités dans la plus grande métropole d'affaires de l'économie.
- Est détenue entièrement (100 %) par des ressortissants de l'économie, au nombre de cinq, dont aucun n'est une personne morale.
- Dispose d'un capital initial équivalent à 10 fois le revenu par habitant fin 2010, versé en numéraire.
- Exerce des activités générales à caractère industriel ou commercial, telles que la production ou la vente de produits ou services destinés au public ; ne mène pas d'activités de commerce extérieur et son domaine d'activité ne couvre pas les produits soumis à un régime fiscal particulier, comme par exemple les alcools et le tabac. L'entreprise n'utilise pas de procédés de production particulièrement polluants.
- Loue les locaux, usine et bureaux qu'elle utilise à des fins commerciales, et n'est pas propriétaire de biens immobiliers.
- Ne répond pas aux critères lui permettant de bénéficier de mesures d'encouragement à l'investissement ou d'autres avantages particuliers.
- Emploie au minimum 10 salariés, au maximum 50, dans le mois qui suit le lancement de ses activités, tous les salariés étant des ressortissants de cette économie.
- Son chiffre d'affaires représente au moins 100 fois le revenu par habitant.
- Les statuts de l'entreprise s'étendent sur 10 pages.

Procédures

Une procédure est définie comme toute interaction entre les fondateurs de l'entreprise et des tiers extérieurs (par exemple des organismes publics, des avocats, des commissaires aux comptes, des notaires). Les interactions entre les fondateurs ou les représentants de l'entreprise et le personnel ne sont pas considérées comme des procédures. Les procédures qui doivent être accomplies au sein d'un même bâtiment, mais dans des bureaux différents, sont considérées comme étant différentes. Si les fondateurs doivent se rendre dans le même bureau à plusieurs reprises pour l'accomplissement de différentes procédures d'affilée, chacune de celles-ci est comptée séparément. Les fondateurs sont censés accomplir toutes les procédures en personne, sans intermédiaires, médiateurs, comptables ou avocats, sauf si le recours à ces tiers est exigé par la loi. Si les services de professionnels sont obligatoires, les procédures effectuées par ces derniers au nom de l'entreprise sont comptées séparément. Chaque procédure électronique est comptée séparément. Si 2 procédures peuvent être exécutées à travers le même site web, mais nécessitent des dossiers distincts, elles comptent pour 2 procédures distinctes.

Les procédures officielles dont un entrepreneur est tenu de s'acquitter avant et après la constitution de la société, afin de pouvoir gérer officiellement son entreprise, sont comptabilisées.

Les procédures applicables à la correspondance officielle ou aux transactions avec l'administration sont aussi prises en compte. À titre d'exemple, si le sceau ou le tampon de l'entreprise doit être obligatoirement apposé sur les documents officiels, tels que les déclarations fiscales, l'obtention de ces sceaux et tampons est prise en considération. De même, si une entreprise doit ouvrir un compte bancaire avant d'être inscrite au registre de la taxe sur les ventes

ou la taxe sur la valeur ajoutée, une telle transaction est comptée comme procédure. Les raccourcis ne sont pris en compte que s'ils satisfont à quatre critères : ils doivent être légaux, accessibles au grand public, utilisés par la majorité des entreprises, et les contourner engendrerait des retards considérables.

Seules les procédures obligatoires pour toutes les entreprises sont traitées. Celles qui sont spécifiques à certains secteurs d'activité sont exclues. Par exemple, les procédures de mise en conformité avec les normes environnementales ne sont incluses que lorsqu'elles s'appliquent à toutes les entreprises menant des activités générales de nature commerciale ou industrielle. Les procédures effectuées par l'entreprise pour se raccorder aux réseaux d'alimentation en électricité, eau et en gaz, et pour bénéficier des services d'évacuation des déchets ne sont pas incluses.

Délais

Les délais sont exprimés en jours civils. La mesure correspond à la durée médiane nécessaire en pratique pour accomplir une procédure, selon les juristes spécialisés dans la constitution de sociétés, avec un minimum de modalités complémentaires auprès des organismes publics et aucun paiement supplémentaire. On estime que le temps minimum nécessaire à chaque procédure est d'une journée. Les procédures peuvent être accomplies simultanément, mais ne peuvent pas être initiées le même jour (autrement dit, des procédures simultanées commencent des jours différents consécutifs). Une procédure est considérée comme étant accomplie une fois que l'entreprise a reçu le document final, à savoir le certificat d'enregistrement de l'entreprise ou son numéro fiscal. Lorsqu'une procédure peut être accélérée moyennant un coût supplémentaire, le procédé le plus rapide est retenu. On suppose que l'entrepreneur ne perd pas de temps et qu'il s'efforce d'accomplir toutes les procédures restantes sans attendre. Le temps consacré par l'entrepreneur à recueillir des informations n'est pas pris en compte. On suppose que l'entrepreneur connaît, dès le début, toutes les réglementations s'appliquant à la création d'entreprise et l'ordre dans lequel celles-ci doivent être observées, mais n'a eu de contact préalable avec aucun service administratif.

Coût

Le coût est exprimé en pourcentage du revenu par habitant de l'économie. Il comprend tous les frais officiels, frais de justice ou honoraires de professionnels, si ces services sont requis par la loi. Les frais d'acquisition et de certification des livres commerciaux et comptables de l'entreprise sont comptabilisés si ces transactions sont exigées par la loi. Le calcul des coûts repose sur le droit des sociétés, le code du commerce, ainsi que des règlements et barèmes tarifaires spécifiques. Si les barèmes tarifaires ne sont pas disponibles, l'estimation d'un fonctionnaire sert de référence officielle. En l'absence de cette estimation, les estimations formulées par des juristes experts en constitution de sociétés sont retenues. Si plusieurs juristes experts en constitution de sociétés fournissent des estimations différentes, la valeur médiane de ces différentes estimations est retenue. Dans tous les cas, le coût exclut les pots-de-vin.

Question 16

Notre source pour les étapes est la base de données de la Banque Mondiale "Doing Business". La Banque Mondiale utilise un exemple fictif pour s'assurer de la comparabilité des données entre les pays. En ce qui concerne l'enregistrement de la propriété, la méthodologie est la suivante (extraite du site <http://www.doingbusiness.org>):

Doing Business retrace l'enchaînement intégral des procédures que doit exécuter une entreprise (un acquéreur) pour acheter une propriété à une autre entreprise (vendeur), et pour transférer le titre de cette propriété au nom de l'acquéreur, de sorte que ce dernier puisse utiliser ladite propriété aux fins de l'expansion de son entreprise, comme garantie pour souscrire de nouveaux emprunts, ou, si nécessaire, céder la propriété à une autre entreprise. Le processus commence par l'obtention des documents nécessaires, un exemplaire du titre de propriété du vendeur par exemple, si besoin est, et comprend l'exercice de la diligence requise, si nécessaire. L'opération est considérée comme étant terminée lorsque le titre de propriété est opposable aux tiers et lorsque l'acquéreur peut utiliser le bien comme garantie pour obtenir un emprunt bancaire ou le vendre. Le classement de la facilité à enregistrer un titre de propriété correspond à la moyenne simple des classements en percentile pour les indicateurs qui le composent.

Toutes les procédures obligatoires en vertu de la loi ou nécessaires dans la pratique sont prises en compte, qu'elles relèvent de la responsabilité du vendeur ou de l'acheteur ou encore qu'elles doivent être effectuées par un tiers agissant en leur nom. Les avocats locaux spécialisés en droit de la propriété, les notaires et les services de la conservation foncière fournissent des informations sur les procédures à accomplir, ainsi que sur le délai et les coûts afférents à chaque procédure.

Pour assurer la comparabilité des données d'une économie à l'autre, plusieurs hypothèses concernant les parties à la transaction, la propriété et les procédures sont retenues.

Hypothèses relatives aux parties

Les parties (acquéreur et vendeur):

- Sont des sociétés à responsabilité limitée.
- Sont situées dans l'espace périurbain de la plus grande métropole d'affaires de l'économie.
- Elles sont entièrement privées et détenues à 100 % par des ressortissants de l'économie.
- Elles emploient chacune 50 salariés, tous étant des ressortissants de l'économie.
- Elles exercent des activités commerciales à caractère général.

Hypothèses relatives à la propriété

La propriété:

- A une valeur égale à 50 fois le revenu par habitant. Le prix de vente est égal à la valeur.
- Est détenue à 100 % par le vendeur.
- Ne fait l'objet d'aucune hypothèque et est détenue par le même propriétaire depuis 10 ans.
- Est inscrite au registre du cadastre, au registre foncier, ou les deux, et ne fait l'objet d'aucun litige.
- Est située dans une zone commerciale périurbaine et ne nécessite pas de nouveau zonage.
- Comprend un terrain et un bâtiment. La superficie est de 557,4 mètres carrés. Un entrepôt de 2 étages, occupant une superficie de 929 mètres carrés, est situé sur le terrain. L'entrepôt est vieux de dix ans, est en bon état et en conformité avec toutes les normes de sécurité et les codes de construction, ainsi qu'avec toutes les autres obligations légales. La propriété du terrain et du bâtiment sera transférée intégralement.

- Ne fera l'objet ni de rénovations, ni de nouvelles constructions à la suite de l'achat.
- Ne comporte pas d'arbres, de sources naturelles d'eau, de réserves naturelles ou de monuments historiques quels qu'ils soient.
- Ne sera pas utilisée à des fins spéciales et aucun permis particulier, par exemple pour l'usage résidentiel, l'implantation d'une usine, le stockage de déchets ou certains types d'activités agricoles, n'est requis.
- N'est pas occupée (à titre légal ou illégal), et aucune autre partie n'a de droit sur cette propriété.

Procédures

Par procédure, on entend toute interaction entre d'une part l'acquéreur ou le vendeur ou leurs agents (si un agent est requis par la loi ou dans la pratique), d'autre part des tierces parties, en l'occurrence des organismes publics, des inspecteurs, des notaires et des juristes. Les interactions entre les dirigeants de l'entreprise et les salariés ne sont pas prises en compte. Toutes les procédures requises par la loi ou dans la pratique pour l'enregistrement de la propriété sont recensées, même s'il est possible de s'en dispenser dans des cas exceptionnels. On suppose que l'acquéreur choisit la solution légale la plus rapide et adoptée par la majorité des propriétaires. Bien que l'acquéreur puisse faire appel à des juristes ou autres professionnels, si nécessaire, au cours du processus d'enregistrement, on supposera qu'il ne recourt pas à un intermédiaire extérieur, sauf si la loi ou les pratiques habituelles l'exigent.

Délai

Les délais sont exprimés en jours civils et tiennent compte de la durée médiane indiquée par les avocats spécialisés en droit de la propriété, les notaires ou les agents de la conservation foncière, étant nécessaire pour l'accomplissement d'une procédure. On suppose que le délai minimum requis pour l'accomplissement d'une procédure est d'un jour. Les procédures peuvent être effectuées simultanément, mais ne peuvent pas commencer le même jour. L'acquéreur ne perd pas de temps et s'emploie sans tarder à effectuer toutes les procédures restantes. Si une procédure peut être accélérée moyennant un coût supplémentaire, c'est la procédure la plus rapide et utilisée par la majorité des propriétaires qui est choisie. Si des procédures peuvent être accomplies simultanément, elles sont enregistrées comme telles; de même, les parties concernées sont, dès le début, au fait de toute la réglementation ainsi que de l'enchaînement des opérations. Le temps consacré à recueillir des informations n'est pas comptabilisé.

Coût

Le coût est exprimé en pourcentage de la valeur de la propriété, considérée comme étant équivalente à 50 fois le revenu par habitant. Seuls les coûts officiels sont comptabilisés, y compris les frais, les droits de transfert, les droits de timbre et autres versements à effectuer à la conservation foncière, aux notaires, aux organismes publics ou à des juristes. Les impôts ou taxes divers, tels que l'impôt sur les plus-values ou la taxe sur la valeur ajoutée, ne sont pas pris en considération dans l'évaluation du coût. Les coûts à la charge de l'acquéreur, et ceux qui sont à la charge du vendeur, sont inclus. Lorsque les évaluations provenant de différentes sources sont différentes, la valeur médiane est retenue.

ANNEX 7 : EXTERNAL KEY INFORMANT ADDITIONAL QUESTIONNAIRES

UIHJ (UNION INTERNATIONALE DES HUISSIERS DE JUSTICE)
QUESTIONNAIRE

English version

Note

The following questionnaire has been jointly prepared by the European Commission for the Efficiency of Justice of the Council of Europe (CEPEJ) and the UIHJ, on request of the European Commission.

It only concerns the member states of the European Union and data for the year 2010

Thank you for answering by 23 April 2012 at the latest

Part 1 - Effectiveness of enforcement proceedings in domestic law

1. When a decision in civil and commercial matter must be brought into effect, failing voluntary compliance by the debtor,

1.1. What is the average percentage of decisions fully enforced?:

-%
- Between% and%
- Unknown
- Non available
- Non applicable

1.2. What is the average percentage of decisions partially enforced?:

-%
- Between% and%
- Unknown
- Non available
- Non applicable

1.3. What is the average percentage of decisions whose enforcement has not been possible due to the failure of the debtor?:

-%

- Between% and%
- Unknown
- Non available
- Non applicable

1.4. Classify the causes that prevented the enforcement of the court decision from 1 to 5, 1 being the least frequent cause and 5 being the most frequent cause:

- 1.4.1. The debtor has left no forwarding address or has no longer a known address
- 1.4.2. It was impossible to obtain information about the debtor's assets, including their location
- 1.4.3. Enforcement procedures in place were not successful for various reasons
- 1.4.4. The debtor is insolvent
- 1.4.5. The debtor is the subject of bankruptcy proceedings or an equivalent procedure
- 1.4.6. Other:

2. What is the average length of enforcement proceedings in civil or commercial matter?:

3. Is there a maximum time to enforce a court decision in civil or commercial matter?:

4. Can the enforcement agent in charge of enforcing a court decision grant the debtor installments for the payment of the debt, including with the consent of the creditor?:

- Yes
- No (**go to question 8**)

5. If this possibility exists, what is the average time granted to the debtor to execute the court decision?:

6. If this possibility exists, does it generally lead to the complete recovery of the debt?:

- Always
- Often
- Sometimes
- Rarely
- Never

7. If this possibility exists, it is often used by the enforcement agent?:

- In almost all cases
- In a majority of cases
- In approximately half of the cases
- In a minority of cases
- Never

8. What was in 2010 the average percentage of debt recovered in proceedings related to insolvency and bankruptcy? :

-%
- Between% and%
- Unknown
- Non available
- Non applicable

9. What is the average duration (in months) taken to repay creditors during an insolvency or bankruptcy proceeding?

-%
- Between% and%
- Unknown
- Non available
- Non applicable

Part 2 - Effectiveness of civil enforcement proceedings in cross-border litigation

10. What is the average duration (in months) of an exequatur procedure of a judgment in civil and commercial matter in your state coming from a non-EU country? :

11. What is the average cost of a such a procedure?:

12. What is the average duration (in months) of a procedure for recognition and enforcement of judgments in civil and commercial matter in your state coming from another EU country? :

13. What is the average cost of a procedure of recognition of a judgment under the Brussels I Regulation (Regulation (EC) 44/2001 of 22 December 2000)? :

14. If a decision taken in civil and commercial matter from another State of the European Union has been recognized in your state under the Brussels I Regulation, and in the absence of voluntary compliance by the debtor:

14.1. What is the average percentage of decisions fully enforced?:

-%
- Between% and%
- Unknown
- Non available
- Non applicable

14.2. What is the average percentage of decisions partially enforced?:

-%
- Between% and%
- Unknown
- Non available
- Non applicable

14.3. What is the average percentage of decisions whose implementation has not been possible due to the failure of the debtor?:

-%
- Between% and%
- Unknown
- Non available

- Non applicable

14.4. Classify the causes that prevented the enforcement of the court decision from 1 to 5, 1 being the least frequent cause and 5 being the most frequent cause:

- 14.4.1. The debtor has left no forwarding address or has no longer a known address
- 14.4.2. It was impossible to obtain information about the debtor's assets, including their location
- 14.4.3. Enforcement procedures in place were not successful for various reasons
- 14.4.4. The debtor is insolvent
- 14.4.5. The debtor is the subject of bankruptcy proceedings or an equivalent procedure
- 14.4.6. Other:

15. Is Regulation (EC) No 44/2001 used more often in your country than Regulation (EC) No 805/2004 of 21 April 2004 creating a European Enforcement Order for uncontested claims (EEO)?:

- Yes
- No

Part 3 - Effectiveness of cross-border service of judicial and extrajudicial documents in civil and commercial matter

16. How many judicial or extrajudicial documents from another Member State of the European Union were served in your state in 2010 in accordance with Regulation (EC) No 1393/2007 of 13 November 2007?:

17. How many judicial or extrajudicial documents were transmitted in 2010 by your country to be served in another EU member State in accordance with Regulation (EC) No 1393/2007 of 13 November 2007?:

18. What is the average length (in weeks) to serve a document in your country coming from another EU country in accordance with Regulation (EC) No 1393/2007 of 13 November 2007?:

19. What is the average length (in weeks) to serve a document coming from your country in another EU state in accordance with Regulation (EC) No 1393/2007 of 13 November 2007?:

- Austria:
- Belgium:
- Bulgaria:
- Czech Republic:
- Cyprus:
- Denmark:
- Estonia:
- Finland:
- France:
- Germany:
- Greece:
- Hungary:
- Ireland:
- Italy:
- Latvia:
- Lithuania:
- Luxembourg:
- Malta:

- The Netherlands:
- Poland:
- Portugal:
- Romania:
- Slovakia:
- Slovenia:
- Spain:
- Sweden:
- United kingdom
 - o England and Wales:
 - o Gibraltar:
 - o Northern Ireland:
 - o Scotland:

French version

Note

Le questionnaire ci-dessous a été préparé conjointement par la Commission européenne pour l'efficacité de la justice du Conseil de l'Europe (CEPEJ) et l'UIHJ, à la demande de la Commission européenne.

Il ne concerne que les pays de l'Union européenne, pour les données de l'année 2010.

Merci de votre réponse pour le 23 avril 2012 au plus tard

Partie 1 - Efficacité des procédures d'exécution en droit interne

1. Lorsqu'une décision rendue par une juridiction civile ou commerciale doit être ramenée à exécution, à défaut d'exécution volontaire de la part du débiteur,

1.1. Quel est le pourcentage moyen de décisions exécutées en totalité ? :

-%
- Entre% et%
- Inconnu
- Non disponible
- Non applicable

1.2. Quel est le pourcentage moyen de décisions exécutées partiellement ? :

-%
- Entre% et%
- Inconnu
- Non disponible
- Non applicable

1.3. Quel est le pourcentage moyen de décisions dont l'exécution n'a pas été possible en raison de la défaillance du débiteur ? :

-%
- Entre% et%
- Inconnu

- Non disponible
- Non applicable

1.4. Classer les causes ayant empêché l'exécution de la décision de justice de 1 à 5, 1 étant la cause la moins fréquente et 5 la cause la plus fréquente :

- 1.4.1. Le débiteur est parti sans laisser d'adresse ou n'a plus d'adresse connue
- 1.4.2. Il a été impossible d'obtenir des informations sur le patrimoine du débiteur pour parvenir à localiser ses biens
- 1.4.3. Les procédures d'exécution mises en place n'ont pu aboutir pour diverses raisons
- 1.4.4. Le débiteur est insolvable
- 1.4.5. Le débiteur fait l'objet d'une procédure de faillite ou une procédure équivalente
- 1.4.6. Autre :

2. Quelle est la durée moyenne d'une procédure d'exécution en matière civile ou commerciale ? :

3. Y a-t-il un délai maximum pour exécuter une décision de justice en matière civile ou commerciale ? :

4. L'agent d'exécution en charge de l'exécution de la décision de justice peut-il octroyer au débiteur un étalement du paiement de la dette, au besoin avec l'accord du créancier ? :

- Oui
- Non (**allez à la question 8**)

5. Au cas où cette possibilité existe, quel est le délai moyen octroyé au débiteur pour exécuter la décision de justice ? :

6. Au cas où cette possibilité existe, permet-elle en général d'obtenir le recouvrement complet de la créance ? :

- Toujours
- Souvent
- Parfois
- Rarement
- Jamais

7. Au cas où cette possibilité existe, est-elle souvent utilisée par l'huissier de justice ? :

- Dans la quasi-totalité des dossiers
- Dans une majorité de dossier
- Environ dans la moitié des dossiers
- Dans une minorité de dossiers
- Jamais

8. Quel a été en 2010 le pourcentage moyen de dettes recouvrées dans le cadre des procédures liées à l'insolvabilité et à la faillite ? :
-%
 - Entre% et%
 - Inconnu
 - Non disponible
 - Non applicable
9. Quelle est la durée moyenne (en mois) pour payer les créanciers lors d'une procédure d'insolvabilité ou de faillite ?
-%
 - Entre% et%
 - Inconnu
 - Non disponible
 - Non applicable

Partie 2 - Efficacité des procédures civiles d'exécution concernant les litiges transnationaux

10. Quelle est la durée moyenne (en mois) d'une procédure d'exequatur d'une décision en matière civile ou commerciale au sein de votre Etat émanant d'un pays non-membre de l'Union européenne ? :
11. Combien coûte en moyenne une telle procédure d'exequatur ? :
12. Quelle est la durée moyenne (en mois) d'une procédure de reconnaissance et d'exécution d'une décision en matière civile ou commerciale au sein de votre Etat émanant d'un autre pays de l'Union européenne ? :
13. Combien coûte en moyenne une procédure de reconnaissance réalisée dans le cadre du règlement Bruxelles I (règlement (CE) 44/2001 du 22 décembre 2000) ? :
14. Lorsqu'une décision rendue en matière civile ou commerciale émanant d'un autre Etat de l'Union européenne a été reconnue dans votre Etat en application du règlement Bruxelles I, et à défaut d'exécution volontaire de la part du débiteur :
- 14.1. Quel est le pourcentage moyen de décisions exécutées en totalité ? :
-%
 - Entre% et%
 - Inconnu
 - Non disponible
 - Non applicable
- 14.2. Quel est le pourcentage moyen de décisions exécutées partiellement ? :
-%

- Entre% et%
- Inconnu
- Non disponible
- Non applicable

14.3. Quel est le pourcentage moyen de décisions dont l'exécution n'a pas été possible en raison de la défaillance du débiteur ? :

-%
- Entre% et%
- Inconnu
- Non disponible
- Non applicable

14.4. Classer les causes ayant empêché l'exécution de la décision de justice de 1 à 5, 1 étant la cause la moins fréquente et 5 la cause la plus fréquente :

- 14.4.1. Le débiteur est parti sans laisser d'adresse ou n'a plus d'adresse connue
- 14.4.2. Il a été impossible d'obtenir des informations sur le patrimoine du débiteur pour parvenir à localiser les biens du débiteur
- 14.4.3. Les procédures d'exécution mises en place n'ont pu aboutir pour diverses raisons
- 14.4.4. Le débiteur est insolvable
- 14.4.5. Le débiteur fait l'objet d'une procédure de faillite ou une procédure équivalente
- 14.4.6. Autre :

15. Dans votre pays, le règlement (CE) n°44/2001 est-il plus utilisé que le règlement (CE) n°805/2004 du 21 avril 2004 portant création d'un titre exécutoire européen pour les créances incontestées (TEE) ? :

- Oui
- Non
- Inconnu
- Non disponible
- Non applicable

Partie 3 - Efficacité de la signification transfrontalière d'actes judiciaires et extrajudiciaires en matière civile et commerciale
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16. Combien d'actes judiciaires ou extrajudiciaires en provenance d'un autre Etat membre de l'Union européenne ont-ils été signifiés ou notifiés en 2010 dans votre Etat conformément aux dispositions du règlement (CE) n°1393/2007 du 13 novembre 2007 ? :

17. Combien votre Etat a-t-il transmis en 2010 d'actes judiciaires ou extrajudiciaires dans les autres Etats membres afin qu'ils y soient signifiés ou notifiés conformément aux dispositions du règlement (CE) n°1393/2007 du 13 novembre 2007 ? :

18. Quelle est la durée moyenne (en semaines) pour signifier ou notifier dans votre pays un acte en provenance d'un autre Etat membre de l'UE conformément aux dispositions du règlement (CE) n°1393/2007 du 13 novembre 2007 ? :

19. Quelle est la durée moyenne (en semaines) pour faire signifier ou notifier dans un autre pays membre de l'UE un acte en provenance de votre pays conformément aux dispositions du règlement (CE) n°1393/2007 du 13 novembre 2007 ? :

- Allemagne :
- Autriche :
- Belgique :
- Bulgarie :
- Chypre :
- Danemark :
- Espagne :
- Estonie :
- Finlande :
- France :
- Grèce :
- Hongrie :
- Irlande :
- Italie :
- Lettonie :
- Lituanie :
- Luxembourg :
- Malte :
- Pays-Bas :
- Pologne :
- Portugal :
- République tchèque :
- Roumanie :
- Royaume-Uni
 - o Angleterre et Pays de Galle :
 - o Ecosse :
 - o Irlande du Nord :
 - o Gibraltar :
- Slovaquie :
 - Slovénie :
 - Suède :

COVER LETTER AND QUESTIONNAIRE FOR GEMME (GROUPEMENT EUROPEEN DES MAGISTRATS POUR LA MEDIATION)

English version

Dear members of Gemme,

Following a request from the European Commission, the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe is preparing a report on the efficiency of European justice systems (focusing on European Union Member States) on the economy. Within this framework, there are several questions referring to the topic of judicial mediation in other than criminal matters. Following a preliminary meeting with Béatrice Brenneur, it has been decided to contact you to collect data on the subject.

If possible, please reply to the following questions concerning your country before 2 May 2012. If you do not have such data but have the knowledge of someone else who has it, please provide us the details of such correspondent (name, e-mail, telephone number).

We would like to collect 2010 data, and in addition, if possible, 2011 data.

1. Please provide the total number of judicial mediation cases, in other than criminal matters (if possible please also indicate the number of judicial mediation civil, family, commercial, administrative and employment dismissal cases).
2. Please provide the average cost of judicial mediation procedure, in other than criminal matters (if possible please also indicate the cost of judicial mediation for civil, family, commercial, administrative and employment dismissal cases).
3. Please provide an indication of the average length of judicial mediation procedures, in other than criminal matters (if possible please also indicate the average length of judicial mediation for civil, family, commercial, administrative and employment dismissal cases).
4. Please provide the total number of cases which are settled out through judicial mediation in other than criminal matters (if possible please also indicate the number for civil, family, commercial, administrative and employment dismissal cases)
5. Has there recently been a reform in the domain of judicial mediation in your country? is there an ongoing reform or is one reform under discussion?
6. Please provide any comment which can help the interpretation of the data provided above.

French version

Chers membres de Gemme,

La Commission Européenne pour l'efficacité de la justice (CEPEJ) du Conseil de l'Europe prépare actuellement un rapport pour la Commission Européenne sur le thème de l'efficacité des systèmes judiciaires européens (pour les pays membres de l'Union européenne) sur l'économie. Dans ce cadre, plusieurs questions relatives à la médiation judiciaire, en matière autre que pénale, sont posées. Après un entretien avec Madame Béatrice Brenneur, nous nous permettons de vous contacter pour solliciter des données sur ce sujet.

Nous vous serions par conséquent reconnaissant de bien vouloir répondre aux questions suivantes, si possible avant le 2 mai 2012, ou le cas échéant, de nous indiquer la personne (nom,

adresse électronique, numéro de téléphone) qui pourrait y répondre pour votre pays. Nous aimerions obtenir vos données pour l'année 2010 et, si possible, également pour l'année 2011.

1. Veuillez indiquer le nombre total d'affaires pour lesquelles une procédure de médiation judiciaire en matière autre que pénale est utilisée (si possible, veuillez distinguer les affaires civiles, familiales, commerciales, administratives et de licenciement)
2. Veuillez indiquer le coût d'une procédure de médiation judiciaire en matière autre que pénale (si possible, veuillez distinguer les affaires civiles, familiales, commerciales, administratives et de licenciement)
3. Veuillez indiquer la durée moyenne d'une procédure de médiation judiciaire en matière autre que pénale (si possible, veuillez distinguer les affaires civiles, familiales, commerciales, administratives et de licenciement)
4. Veuillez indiquer le nombre total d'affaires résolues par une procédure de médiation judiciaire en matière autre que pénale ? (Si possible, veuillez distinguer les affaires civiles, familiales, commerciales, administratives et de licenciement)
5. Veuillez indiquer si une réforme vient d'être instaurée, est en cours ou est envisagée dans le domaine de la médiation judiciaire, autre que pénale, dans votre pays.
6. Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus.

COVER LETTER AND QUESTIONNAIRE FOR EUROPEAN E-JUSTICE PORTAL MEDIATION CONTACTS

English version

Dear Sir/Madame,

Following a request from the European Commission, the Council of Europe (European Commission for the Efficiency of Justice - CEPEJ) is preparing a report on the impact of the efficiency of European Union Justice Systems on the economy. Within this framework, there are some questions referring to the topic of judicial mediation in other than criminal matters (i.e. civil, administrative etc.).

We would like to ask you and your organisation to contribute to this important effort, replying to the following questions concerning mediation in your country. If you do not have such data but have the knowledge of someone else who has it, please provide us the details of such correspondent (name, e-mail, telephone number).

We would like to collect 2010 data. If only data for a different year is available, please specify the year. If no data is available, please specify it. This project has a quite tight schedule so, if possible, please reply before 9 May 2012.

Country:

Respondent:
Respondent organisation:
Respondent e-mail:

1. Total number of judicial mediation cases, in other than criminal matters in your country in 2010 (if possible please also specify the number of judicial mediation civil, family, commercial, administrative and employment dismissal cases).

(Data source:...)

2. Average cost of judicial mediation procedure, in other than criminal matters in your country in 2010 (if possible please also specify the cost of judicial mediation for civil, family, commercial, administrative and employment dismissal cases).

(Data source:...)

3. Average length of judicial mediation procedures, in other than criminal matters in your country in 2010 (if possible please also specify the average length of judicial mediation for civil, family, commercial, administrative and employment dismissal cases).

(Data source:...)

4. Total number of cases which are settled out through judicial mediation in other than criminal matters in your country in 2010 (if possible please also specify the number for civil, family, commercial, administrative and employment dismissal cases).

(Data source:...)

5. Has there recently been a reform in the domain of judicial mediation in your country? Is there an ongoing reform or is one reform under discussion?

(Data source:...)

6. Please provide any comment that can help the interpretation of the data provided above.

7. Please provide any additional data, data source, or input that you consider relevant.

French version

Chère Madame, Cher Monsieur,

Suite à une demande de la Commission Européenne, le Conseil de l'Europe (Commission Européenne pour l'efficacité de la justice - CEPEJ) prépare actuellement un rapport sur l'impact de l'efficacité des systèmes judiciaires de l'Union Européenne sur l'économie. Dans ce cadre, certaines questions relatives à la médiation judiciaire, en matière autre que pénale, se posent (par ex en matière civile, administrative etc...).

Nous souhaiterions vous demander, ainsi qu'à votre organisation, de contribuer à ce travail d'importance en répondant aux questions suivantes concernant la médiation dans votre pays. Si vous ne disposez pas de ces données mais que vous pouviez nous indiquer la personne qui

pourrait les avoir, merci de nous préciser ses coordonnées (nom, e-mail, numéro de téléphone). Nous aimerions obtenir vos données pour l'année 2010. Si vous ne disposez que de données pour une autre année, merci d'indiquer de quelle année il s'agit. Merci également de nous indiquer si aucune donnée n'est disponible. Le calendrier de ce projet étant particulièrement resserré, nous vous serions reconnaissant de répondre, si possible, avant le 9 mai 2012.

Pays :

Personne en charge de la réponse :

Organisation en charge de la réponse :

E-mail de la personne en charge de la réponse :

1. Nombre total d'affaires de médiation judiciaire en matière autre que pénale dans votre pays pour l'année 2010 (si possible, veuillez distinguer les affaires civiles, familiales, commerciales, administratives et de licenciement)

(Source : ...)

2. Coût d'une procédure de médiation judiciaire en matière autre que pénale dans votre pays pour l'année 2010 (si possible, veuillez distinguer les affaires civiles, familiales, commerciales, administratives et de licenciement)

(Source : ...)

3. Durée moyenne d'une procédure de médiation judiciaire en matière autre que pénale dans votre pays pour l'année 2010 (si possible, veuillez distinguer les affaires civiles, familiales, commerciales, administratives et de licenciement)

(Source : ...)

4. Nombre total d'affaires résolues par une procédure de médiation judiciaire en matière autre que pénale dans votre pays pour l'année 2010 (Si possible, veuillez distinguer les affaires civiles, familiales, commerciales, administratives et de licenciement)

(Source : ...)

5. Veuillez indiquer si une réforme vient d'être instaurée, est en cours ou est envisagée dans le domaine de la médiation judiciaire, autre que pénale, dans votre pays pour l'année 2010

(Source : ...)

6. Veuillez ajouter tout commentaire utile à l'interprétation des données ci-dessus.

7. Veuillez ajouter toute données ou sources que vous estimez pertinentes.

COVER LETTER AND QUESTIONNAIRE FOR EUROCHAMBRES³⁵⁵

³⁵⁵ In English only.

Dear Sir/Madame

The European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe is preparing a report requested by the European Commission on "The impact of EU Justice Systems on the economy". This report will be mainly based on CEPEJ data collected through its 2010 – 2012 Evaluation of Justice Systems exercise. However, considering the specific aim of the study, CEPEJ will collect complementary information from additional sources. In line with this, different questionnaires are being sent to several sources. It is our intention to send one to Chamber of Commerce and Industry of each EU Member State. You will find this questionnaire as an attached file. We would like to ask your contribution in supporting this effort, sending the questionnaire to your contacts in the Chamber of Commerce and Industry of EU country, as finding the right respondent is a critical factor. If you think it will be easier, we can also send the questionnaire to the contacts you can provide. We will wait for your reply before trying to contact the National Chamber of Commerce and Industry directly.

If possible, we would like to have a reply to this questionnaire before 2 May 2012.

**CEPEJ questionnaire on
"The impact of EU justice Systems on the Economy" for
Chambers of Commerce and Industry
April 2012**

1. What is the total number of new companies registered in your country in 2010?

...
☐ NA

2. What is the number of new companies registered in your country in 2010 established in another Member State of the European Union (i.e. foreign companies from the EU registered in your country)?

...
☐ NA

3. What is the average duration (in months) of an insolvency or bankruptcy proceeding in your country?

...
Between ... and ...
☐ NA
☐ NAP

4. What is the average duration (in months) taken to repay creditors during an insolvency or bankruptcy proceeding in your country?

...
Between ... and ...
☐ NA
☐ NAP

5. What is the average percentage of debt recovered during an insolvency or bankruptcy proceeding in your country?

...
Between ... and ...
☐ NA
☐ NAP

6. What is the percentage of insolvency and bankruptcy cases that end with the company death in your country?

...

Between ... and ...

☐ NA

☐ NAP

7. How would you qualify the insolvency and bankruptcy proceedings in your country?

☐ Very simple

☐ Quite simple

☐ Quite complex

☐ Very complex

8. Could you list the main steps of an insolvency and bankruptcy proceeding in your country? Please indicate which steps are of the competence of the judicial administration (i.e. under the jurisdiction of a court).

1. ...

2. ...

3. ...

...

9. Can you provide the data on number, average length, and average cost of arbitration cases involving enterprises in 2010

...

☐ NA

10. Can you provide the data on number, average length, and average cost of arbitration employment dismissal cases in 2010.

...

☐ NA

11. Can you provide the data on number, average length, and average cost of first instance court cases involving enterprises in 2010.

...

☐ NA

12. Can you provide the data on number, average length, and average cost of first instance court employment dismissal cases in 2010.

...

☐ NA

13. Can you provide the data on number, average length, and average cost of judicial mediation cases involving enterprises in 2010.

...

☐ NA

14. Can you provide the data on number, average length, and average cost of judicial mediation employment dismissal cases in 2010.

...

☐ NA

15. Please provide any comment which can help the interpretation of the data provided above.

...

QUESTIONS ADDRESSED TO CCBE (COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE)³⁵⁶

Données chiffrées sur les avocats exerçant au sein de l'Union européenne et notamment :

1. Nombre d'avocat ressortissant d'un Etat membre de l'UE exerçant sur la base de la Directive 98/5
2. Nombre d'avocats exerçant sur une base transfrontalière (directive 77/249).

QUESTIONS ADDRESSED TO EUROPEAN BUSINESS REGISTER (TO BE SENT TO THE NETWORK OF MEMBER COUNTRIES)³⁵⁷

1. What is the total number of new companies registered in your country in 2010?
2. What is the number of new companies registered in your country in 2010 established in another Member State of the European Union (i.e. foreign companies from the EU registered in your country)?

QUESTIONS ADDRESSED TO EUROPEAN LAND INFORMATION SERVICE (TO BE SENT TO THE NETWORK OF MEMBER COUNTRIES)³⁵⁸

1. What is the total number of new land and other properties registered in your country in 2010?
2. What is the number of new land and other properties registered in your country in 2010 by a person or a legal entity established in another Member State of the European Union?

³⁵⁶ In French only.

³⁵⁷ In English only.

³⁵⁸ In English only.

